



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF, LRE, O

### Introduction

This hearing dealt with an application from SW (the applicant) pursuant to the *Residential Tenancy Act* ("Act") for;

- Cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- Restriction on the landlord's right to enter the rental suite pursuant to section 70; and
- Recovery of the filing fee pursuant to section 72.

The landlords did not attend this hearing, which lasted approximately 20 minutes. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The applicant testified that he sent by Registered Mail, a copy of the application for dispute resolution hearing package to the landlord on November 18, 2016. Based on the undisputed testimony of the applicant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with this application on November 23, 2016, five days after it was sent by Registered Mail.

On the application for dispute resolution, the applicant indicated in the *Details of the Dispute* that he was not a tenant and maintained that he was a half-owner of the property. However, as the applicant sought a cancellation of the 1 Month Notice and the landlord/respondent did not oppose this application, I have proceeded on the basis that the applicant submitted a valid application pursuant to the *Act*.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled?

Is the tenant entitled to a recovery of the filing fee?

Can the tenant restrict the landlord's right to enter the rental unit?

Background and Evidence

The tenant acknowledged receipt of the 1 Month Notice on November 9, 2016. The tenant testified that he filed an application for dispute resolution on November 14, 2016.

Analysis – 1 Month Notice

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the 1 Month Notice. Because the landlord did not attend the hearing I find the landlord has failed to satisfy the burden of proof and I therefore allow the tenant's application to cancel the 1 Month Notice.

Analysis – Landlord's Right to Enter Suite

The tenant testified that he included this on his application for dispute resolution because he was informed by an information officer working at the Residential Tenancy Branch that he should do so to "protect himself." The tenant did not seem to understand the nature of this provision and informed that he did not have issues with the landlord entering his suite.

Filing Fee

As the tenant's application was successful, the tenant is entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

The tenant's application to cancel the 1 Month Notice is allowed. The Notice is of no continuing force or effect. This tenancy continues until ended in accordance with the *Act*.

I issue a monetary order of **\$100.00** in the tenant's favour, which allows the tenant to recoup the filing fee of this application. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. The tenant may also choose to withhold \$100.00 from a future monthly rent payment in order to implement this monetary award.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 28, 2016

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Residential Tenancy Branch