



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

This hearing dealt with the tenant's application 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.

The landlord did not attend this hearing, which lasted approximately 12 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 tenant testified that she sent a copy of her dispute resolution hearing package to the landlord by registered mail on November 25, 2016. The tenant provided a Canada Post tracking number as evidence. Based on the undisputed testimony of the tenant and in accordance with sections 89 and 90 of the *Act*, I find that the landlord was deemed served with the tenant's application on November 30, 2016, five days after mailing.

Issue(s) to be Decided

Should the 1 Month Notice be cancelled?

Background and Evidence

The tenant acknowledged receipt of the 1 Month Notice on or about November 17, 2016. The tenant testified that she filed an application for dispute resolution on November 24, 2016.

Analysis

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.

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*.

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: January 3, 2017

Residential Tenancy Branch