



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant and landlords attended the hearing. At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

Both parties were given full opportunity to provide affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

The tenant did not provide testimony or evidence in relation to the order for the landlord to comply with the *Act*, *Regulation* or tenancy agreement sought in his application therefore this portion of his claim is dismissed without leave to reapply.

### Issue(s) to be Decided

Is the tenant entitled to have the landlord's 1 Month Notice dismissed? If not, is the landlord entitled to an order of possession?

Is the tenant authorized to recover the filing fee for this application from the landlord?

### Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began on May 1, 2011 on a month-to-month basis. Rent in the amount of \$800.00 is payable on the first of each month. The tenant remitted a security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

The tenant acknowledged personal receipt of the landlord's 1 Month Notice dated December 26, 2016. The grounds to end the tenancy cited in that 1 Month Notice were;

- the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord

The landlord testified that although the tenancy agreement does not require the tenant to obtain tenant's insurance, three years ago the parties came to a verbal agreement that the tenant would maintain tenant's insurance paid for by the landlord. In an effort to support his position, the landlord provided a letter dated April 30, 2014, which states;

*"As we have discussed yesterday morning please provide a Tenant's Contents Insurance Package with minimum of \$1,000,000.00 Liability."*

The landlord explained that his fire/insurance company policy requires the landlord to provide a copy of tenant's fire insurance liability and the tenant's refusal to renew the tenant's insurance this year puts his property at significant risk.

The tenant acknowledged that he has obtained and been reimbursed for tenant's insurance for the last two years but contends it is his right not to renew the insurance as this requirement is not outlined in his tenancy agreement. The tenant testified that the verbal discussion held three years ago did not include an agreement for an ongoing arrangement.

### Analysis

The onus is on the landlord to prove the reasons listed on the 1 Month Notice took place by the tenant or person permitted on the property by the tenant.

The landlord has provided insufficient evidence to establish the tenant has put the landlord's property at significant risk. The tenancy agreement does not require the tenant to obtain and maintain tenant's insurance and the landlord did not provide any documentary evidence from his insurance provider to establish tenant's insurance was

required. I find the April 30, 2014 letter confirms a conversation took place between the parties about tenant's insurance and demonstrates a request was made for the tenant to obtain insurance, however I do not find the letter establishes tenant's insurance was a requirement or that it was a requirement to maintain insurance on an ongoing basis. For these reasons, I find the landlord failed to meet his onus that the tenant is required or agreed to obtain and maintain tenant's insurance and his failure to do so put the landlord's property at risk. The landlord's application to end the tenancy on this ground is dismissed.

The landlord has failed to establish the tenant has engaged in illegal activity, a serious violation of federal, provincial or municipal law. Therefore I dismiss the landlord's application to end the tenancy on the ground the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

As the tenant was successful in this application, I find that the tenant is entitled to recover the \$100.00 filing fee paid for the application.

#### Conclusion

The tenant's claim for an order requiring the landlord to comply with the *Act, Regulation* or tenancy agreement is dismissed without leave to reapply.

The tenant's application to cancel the 1 Month Notice is upheld. The tenancy will continue until it is ended in accordance with the *Act*.

The tenant is entitled to deduct \$100.00 from future rent in satisfaction of the monetary award to recover the filing fee.

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 11, 2017