



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause pursuant to section 55.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 1:45 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the dispute resolution proceeding** The dispute resolution proceeding must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord gave sworn testimony that on December 29, 2016 a copy of the Application for Dispute Resolution hearing package was personally served on the tenant pursuant to section 89 of the *Act*. Accordingly, the tenant was duly served with the dispute resolution hearing package on December 29, 2016. Neither party submitted copies of any evidence for this hearing.

The landlord provided undisputed testimony that the tenant was served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice'), with an effective date of January 31, 2017, on December 20, 2016, by personally serving the 1 Month Notice on the tenant. In accordance with section 88 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on December 20, 2016. No proof of service was submitted by the landlord.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

### Background and Evidence

The landlord provided undisputed testimony that this month to month tenancy began "4 to 5 months ago". Rent is currently \$1,150.00 per month, due on the first of each month. The landlord currently holds a security deposit in the amount of \$450.00, and the tenant continues to reside in the rental unit.

The landlord served the tenant a 1 Month Notice on December 20, 2016 with an effective date of January 31, 2017. The landlord did not submit a copy of the 1 Month Notice for this Hearing and he indicated during the hearing that he did not indicate a reason for the notice as “the tenant never asked”. The landlord testified during the hearing that the tenant has not paid rent for December 2016 nor has she paid rent for January 2017. The landlord was unsure how much rent has been paid as the tenant pays partial amounts which vary from \$600 to \$900. The landlord testified that the neighbours have complained about the tenant’s behaviour, and are fearful. The landlord testified that the police have attended on multiple occasions, but did not give details of these visits, or the specific complaints.

### **Analysis**

Based on undisputed testimony of the landlord, I find that the tenant was served with the Notice to End Tenancy, but I find that the 1 Month Notice does not comply with the form and content provisions of section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant’s notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

The landlord testified during the hearing that he did not provide a reason on the 1 Month Notice that was served to the tenant, contrary to the requirements of Section 52(d) of the *Act*. As the landlord did not provide a copy of the 1 Month Notice for this hearing, I was also unable to verify that the Notice complies with the other requirements of section 52. Under these circumstances, I am not allowing the landlord’s application for an Order of Possession for cause, and this tenancy is to continue until ended as per the *Act*.

### **Conclusion**

I dismiss the landlord’s application for an Order of Possession for cause.

The 1 Month Notice is cancelled. The 1 Month Notice of December 20, 2016 is of no 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: February 22, 2017