



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened by conference call in response to the Tenant's Application for Dispute Resolution (the "Application") filed on March 9, 2017 to cancel a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice").

Both parties appeared for the hearing and provided affirmed testimony. The Landlord confirmed receipt of the Tenant's Application and that he had not provided any evidence prior to this hearing and was relying solely on his oral evidence to prove the 1 Month Notice.

The Tenant confirmed receipt of the 1 Month Notice dated March 3, 2017 on the same day from her rental unit door. Therefore, as the Tenant had applied to dispute the 1 Month Notice on March 9, 2017, I determined that the Tenant had made the Application within the 10 day time limit provided by Section 47(4) of the *Residential Tenancy Act* (the "Act").

The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party on the evidence provided.

The Landlord stated that he had served the 1 Month Notice to the Tenant because she was smoking marijuana in the rental unit, but acknowledged that he did not have any supporting evidence to back this up. The Landlord acknowledged that the Tenant had not been issued with a written beach letter for smoking in a nonsmoking rental unit but stated that he wanted the Tenant to refrain from this activity in order to allow the tenancy to continue.

Section 63 of the Act allows an Arbitrator to assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

As a result, I asked the parties if they wanted to resolve this dispute by mutual agreement rather than have a decision made on the evidence before me. Both parties agreed and informed that they wanted to move forward with resolution by voluntary agreement on the following terms and conditions.

Settlement Agreement

The parties together withdrew the 1 Month Notice dated March 3, 2017. Accordingly, I dismissed the Tenant's Application as there were no legal findings for me to make on the 1 Month Notice. The tenancy will continue until such time it is ended pursuant to the Act.

The Tenant agreed that there will be no smoking of any kind in the rental unit either by the Tenant, the Tenant's family members, or any guest of the Tenant. As the Landlord had not put the Tenant on written notice of any breach of the tenancy regarding smoking in the rental unit, the Tenant is hereby put on notice that smoking in the rental unit by any person is prohibited.

The Landlord is at liberty to gather and document any evidence from this date forward of a breach of this agreement and issue the Tenant with another 1 Month Notice if this activity continues. The Landlord will then bear the burden to prove any such notice to end the tenancy.

The parties confirmed their voluntary agreement to the above resolution both during and at the end of the hearing. This file is now closed.

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

Dated: April 13, 2017

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Residential Tenancy Branch