



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF, ERP, LRE, RR

### 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 to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord with the notice of hearing package in person on March 16, 2017. The tenant stated that he did not serve the submitted 2 page documentary evidence to the landlord. Both parties confirmed that the landlord served the tenant with the submitted documentary evidence in person on April 11, 2017. I accept the undisputed affirmed evidence of both parties and find that both parties have been properly served with the notice of hearing package and the landlord's submitted documentary evidence as per sections 88 and 89 of the Act. However, the tenant's submitted documentary evidence was not served to the landlord as per the rules of evidence and are excluded from consideration for this hearing.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 Month Notice?

Is the tenant entitled to an order for emergency repairs?

Is the tenant entitled to an order to set suspend or set conditions on the landlord's right to enter the rental unit?

Is the tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the tenant entitled to a monetary order for recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

Both parties agreed that this tenancy began on February 1, 2017 on a 6 month fixed term tenancy ending on July 31, 2017. The monthly rent is \$550.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$275.00 was paid.

Although both parties failed to provide a copy of the 1 Month Notice, both parties agreed that the landlord served the tenant with the 1 Month Notice dated March 12, 2017 in person on the same date. The 1 Month Notice sets out an effective end of tenancy date of April 12, 2017 and one reason for cause listed as:

Tenant has not done required repairs of damage to the unit/site.

The tenant argued that he is not required to make repairs for the water leaking in the ground at the unit and is not responsible for it. The landlord confirmed that the ground water leak is not the fault of the tenant and is not responsible for repairing it. The landlord provided undisputed affirmed testimony that there is no reason to end this tenancy for repairs required by the tenant.

Further discussions between the parties clarified that neither one was communicating to arrange the temporary housing of the tenant to allow the landlord's contractor to investigate the source of the ground water leak in the rental unit.

### Analysis and Conclusion

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case, based upon the landlord's undisputed affirmed evidence that the tenant is not responsible to make any repairs to the unit, I find that the 1 Month Notice is without cause. The 1 Month Notice dated March 12, 2017 is set aside. The tenancy shall continue.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed that the landlord shall locate temporary housing for the tenant with the following criteria:

- Ground Floor Access
- Wheel Chair Accessible

The landlord will have a contractor investigate and repair the source of the ground water leak in the rental premises.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from this application for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

I decline to make any order regarding the recovery of the filing fee as the majority of the issues regarding this dispute were resolved through mediation.

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: April 19, 2017

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Residential Tenancy Branch