



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing was convened to deal the tenant's application filed June 26, 2017 under the *Residential Tenancy Act* (the "Act"). The tenant applied for an order cancelling a 1 Month Notice to End Tenancy for Cause dated June 16, 2017 (the "1 Month Notice") and for recovery of the application filing fee.

An agent of the named landlord attended the hearing and gave affirmed testimony.

The tenant did not attend at the hearing of his own application.

At the outset of the hearing, the landlord's agent advised that on August 24, 2017 the landlord secured an order of possession by way of its own application by direct request based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and that the tenant had already vacated the rental unit. The file number for the landlord's application is reproduced on the cover page of this decision.

### Analysis

Section 47 of the Act allows a landlord to end a month to month tenancy for cause by giving notice effective on a date not earlier than 1 month after the date the tenant receives the notice, and the day before the day in the month that rent is payable.

Section 47(4) allows a tenant to apply to dispute such a notice within 10 days of receipt. The tenant has applied to dispute the notice but has not attended at the hearing of the application. Accordingly, the tenant's application to cancel the 1 Month Notice is dismissed, without leave to reapply.

Section 55 of the Act requires that I grant an order of possession where a tenant's application to cancel a notice to end tenancy is dismissed or the landlord's notice is upheld, provided the notice complies with s. 52. However, the landlord's agent has

advised that the tenancy had already ended and an order of possession has already been issued. As this tenancy has already ended and an order of possession has already issued, I do not need to end the tenancy or make another order.

### Conclusion

The tenant's application is dismissed without leave to reapply.

As the tenancy had already ended, an order of possession has already been granted, and the unit is no longer occupied by the applicant tenant, I do not need to grant another order of possession.

As the tenant has not attended at the hearing and has not succeeded in his application, the tenant is not entitled to recover the application filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the Act. Pursuant to s. 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: September 11, 2017

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Residential Tenancy Branch