



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPC, CNC, MNDC, FF*

### **Introduction**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for a monetary order for compensation and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be decided**

Did the landlord serve a valid notice to end tenancy? Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for the filing fee? Is the tenant entitled to compensation and the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on May 15, 2016. The monthly rent is \$1,200.00 due on the first of each month.

On May 26, 2017, the landlord served the tenant with a notice to end tenancy, by registered mail. The tenant filed a copy of the notice into evidence. The notice consists of a one page letter dated May 26, 2017, informing the tenant that the owner wanted to end the tenancy effective June 30, 2017. The landlord acknowledged that she had served the notice to end tenancy in the form of a letter and had not used the proper forms.

The tenant stated that he disputed the notice and had to spend time making his application and preparing for this hearing. The tenant is claiming \$450.00 for his time to do so. The tenant is also claiming the recovery of the filing fee of \$100.00.

## **Analysis**

### **Landlord's application:**

Section 52 of the *Residential Tenancy Act* describes the form and content of a notice to end tenancy as follows:

### **Form and content of notice to end tenancy**

**52** In order to be effective, a notice to end a tenancy 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,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

Based on the sworn testimony of the both parties and the documentary evidence, I find that the landlord served the tenant with a notice that was not in compliance with section 52(e) of the *Residential Tenancy Act*. Accordingly the notice is set aside and the tenancy will continue. Since the landlord has not proven her case, she must bear the cost of filing her own application. The landlord's application is dismissed in its entirety.

Tenant's application

The tenant applied for the cost of his time to dispute the landlord's notice to end tenancy. The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the tenant's application for \$450.00 is dismissed.

In this case the tenant applied to dispute the notice to end tenancy. The notice has been set aside. Since the tenant is successful in his application to set aside the notice, I award the tenant the filing fee of \$100.00. The tenant may make a one-time deduction of \$100.00 from a future rent.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenant may make a one-time deduction of \$100.00 from a future rent.

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: September 13, 2017

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Residential Tenancy Branch