



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated July 25, 2017 ("1 Month Notice"), pursuant to section 47.

The landlord did not attend this hearing, which lasted approximately 11 minutes. The tenant and her legal advocate attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that her advocate had permission to speak on her behalf at this hearing.

The tenant's advocate testified that the landlord was served with the tenant's application for dispute resolution and notice of hearing on August 30, 2017, by way of registered mail and the tenant's written evidence package on November 9, 2017 in person. She provided a Canada Post tracking number verbally during the hearing, indicating that the landlord received and signed for the package on September 1, 2017, according to the Canada Post tracking information. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was deemed served with the tenant's application and notice of hearing on September 4, 2017, five days after its registered mailing, and the tenant's written evidence package on November 9, 2017 in person.

The tenant testified that she received the landlord's 1 Month Notice on August 25 or 26, 2017, which was posted to her rental unit door. The tenant claimed that although the notice is dated for July 25, 2017, it was not posted to her door until August 25 or 26, 2017. The effective move-out date on the notice is August 30, 2017. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice.

### Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

### Analysis

In accordance with section 47(4) of the *Act*, the tenant must file her application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenant received the 1 Month Notice around August 25 or 26, 2017 and filed her application to dispute it on August 30, 2017. Accordingly, I find that the tenant's application, whether received on August 25 or 26, was filed within the ten day time limit under the *Act*.

Where a tenant applies to dispute a 1 Month Notice, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 1 Month Notice is based. The landlord did not appear at this hearing. The landlord did not meet his onus of proof.

Therefore, as advised to the tenant during the hearing, the landlord's 1 Month Notice, dated July 25, 2017, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

#### Conclusion

I allow the tenant's application to cancel the landlord's 1 Month Notice. The landlord's 1 Month Notice, dated July 25, 2017, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*.

This tenancy continues until it is 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: November 21, 2017

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Residential Tenancy Branch