



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIBRO HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **REVIEW HEARING DECISION**

Dispute Codes      CNC, OLC, RP

### 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 31, 2017 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62; and
- an order requiring the landlord to make repairs to the rental unit, pursuant to section 33.

The tenant did not attend the hearing, which lasted approximately 17 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

### Preliminary Issue - Previous Hearings and Service of Documents

This matter was previously heard by a different Arbitrator on September 18, 2017 and a decision was issued on the same date ("original hearing" and "original decision"). The landlord did not attend the original hearing, only the tenant and his advocate did. The original decision cancelled the landlord's 1 Month Notice, required the landlord to conduct an inspection and repairs, and provide the tenant with replacement keys.

The landlord applied for a review of the original decision and a new review hearing (this current hearing on December 14, 2017) was granted by a different Arbitrator, pursuant to a "review consideration decision," dated October 2, 2017.

By way of the review consideration decision, the landlord was required to serve the tenant with a copy of the review consideration decision and the notice of review hearing, within three days of receiving the review consideration decision.

The landlord testified that he did not recall the date when he received the review consideration decision, nor did he recall the date that the tenant was served with the above required documents. He said that the tenant personally served with the above documents the day after he received the review consideration decision. He said that no one told him to write down a date and there were 365 days in the year so he could not recall which day he served the tenant.

Accordingly, I find that the tenant was not served, as per section 89 of the *Act*, with the review consideration decision or notice of review hearing, as required. The review consideration decision stated clearly that the above documents were required to be served by the landlord to the tenant. At the hearing, the landlord could not confirm the date of service. The tenant did not appear at this hearing.

Section 82(3) of the *Act* states:

*Following the review, the director may confirm, vary or set aside the original decision or order.*

During the hearing, I informed the landlord that I could not proceed with the hearing because the tenant had not been served with the required review hearing documents. I notified the landlord that the original decision was confirmed. I informed him that the original decision cancelled the 1 Month Notice, continued the tenancy, required the landlord to complete an inspection and repairs, and required him to provide replacement keys to the tenant. The landlord confirmed that he had already completed the inspection and repairs and provided the replacement keys to the tenant.

I confirm the original decision, dated September 18, 2017.

As advised to the landlord during the hearing, I caution the landlord to review section 79(7) of the *Act*, which states that a party may only apply once for a review consideration:

*(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.*

Conclusion

The original decision, dated September 18, 2017, is confirmed.

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: December 14, 2017

---

Residential Tenancy Branch