



# 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 as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on December 14, 2017. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice); and,
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

Both parties attended the hearing and provided affirmed testimony. All parties were given a full opportunity to be heard, to present evidence and to make submissions. During the hearing I explained that I did not have a copy of the Notice, and both parties were asked to provide me with a copy after the hearing concluded. Subsequently, both parties provided a copy of the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the tenant entitled to have the Notice cancelled?
  - If not, is the landlord entitled to an Order of Possession?
- Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background, Evidence and Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid.

The landlord served the tenant with the Notice, in person, on October 1, 2017.

The Notice indicates the following reasons for ending the tenancy in the second page:

- The Tenant is repeatedly late paying rent
- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord,

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, **state the effective date of the notice**, state the grounds for ending the tenancy, and be in the approved form.

In this case, I note that the Landlord did not put an effective date on the Notice. As such, I do not find it meets the form and content requirements set forth under section 52 of the *Act*.

In light of the above, I grant the Tenant's request that I cancel the Notice. Accordingly, the tenancy continues at this time and until such time it legally ends.

It is important to note that I have made no finding as to whether the landlord has a basis under the *Act* for ending the tenancy. The landlord remains at liberty to re-issue a Notice to End Tenancy should the landlord decide to pursue eviction.

As the Tenant was substantially successful with her application, I grant her the recovery of the filing fee against the Landlord. The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

#### Conclusion

The Notice issued on October 1, 2017 has been cancelled and the tenancy continues at this time.

I have made no finding as to whether there were sufficient grounds for eviction and the landlord is at liberty to re-issue a notice to end tenancy if the landlord so chooses.

The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

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 15, 2017

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Residential Tenancy Branch