



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC OPC FF

### Introduction

Only the tenant attended the hearing and gave sworn or affirmed testimony. The One Month Notice to End Tenancy is dated December 1, 2017 to be effective January 31, 2018 and the tenant confirmed it was served by posting it on the door. He received it on December 7, 2017. The tenant /applicant gave evidence that they served the Application for Dispute Resolution dated December 18, 2017 by putting it in the office door of the landlord. He said they are seldom there but the maintenance person later gave him a statement of his version of events which indicated to him that the landlord had received his Application. I find the documents were sufficiently served pursuant to section 71(1) (c) for the purposes of this hearing as one of the landlord's witnesses subsequently gave a statement to the tenant. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To recover his filing fees for this application.

### Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### Background and Evidence

Only the tenant attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced December 1, 2016 on a fixed term lease for one year, reverting to a month to month. Rent is \$750 a month and a security deposit of \$375 was paid. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant or a person permitted on the property by them has significantly interfered with or unreasonably disturbed another occupant or the landlord.

On the form, the landlord had written "Tenant was aggressive and unreasonable with a representative of the landlord causing undue stress and disturbance". No other evidence was filed by the landlord.

The tenant said he was falsely accused of using marijuana in his unit because of the smell. He said he works for a licensed medical marijuana facility and the smell is on his clothes but he does not use it. In addition, he was accused of being responsible for persons knocking on his window asking for marijuana. He said he was not even at home at the time this allegedly happened and it had not happened before or since. When he was falsely accused, his father accompanied him to talk to personnel of the landlord. He said the exchange became heated and he later apologized. He believes the landlord is just trying to end his tenancy in order to re-rent at a higher rent.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached..

**Analysis:**

The onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant. I find the landlord did not satisfy the onus as he did not attend or provide additional written evidence to support the Notice to End Tenancy.

The tenant gave reasons why the Notice should be set aside. I find the evidence of the tenant credible that there may have been a misunderstanding about the marijuana smell as he works in a licensed facility and the smell likely clings to his clothing. I find it credible that he was not at home when other people were knocking on his window and that it happened only once. Although he agrees he was upset and angry with the false accusations by staff, he said he apologized. His father was with him at the time. Based on the evidence provided, I set aside and cancel the Notice to End Tenancy.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is successful. The Notice to End Tenancy dated December 1, 2017 to be effective January 31, 2018 is hereby set aside and cancelled. The tenancy is continued.

I find the tenant entitled to recover his filing fee as he was successful. **I HEREBY ORDER that the tenant may deduct \$100 from his rent to recover his filing fee.**

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: February 07, 2018

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Residential Tenancy Branch