



# Dispute Resolution Services

Page: 1

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 November 20, 2017 ("1 Month Notice"), pursuant to section 47.

The applicant tenant did not attend this hearing, which lasted approximately 15 minutes. The respondent landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord intended to call two other tenants as witnesses in the hearing, so they were excluded from the outset.

The landlord confirmed that he received a copy of the tenant's application for dispute resolution hearing package from the Residential Tenancy Branch ("RTB"), not the tenant. He said that he had a feeling the tenant would dispute the 1 Month Notice so he contacted the RTB to find out whether he did and was informed that the tenant had filed an application, so the RTB sent him the above documents.

The landlord said that he served the tenant with his written evidence package by registered mail. He said he sent the mail information to the RTB. When I asked him to confirm the date and tracking number when he sent the registered mail to the tenant, he did not have the information in front of him. He then became upset with me because he could not confirm the information. I notified him that I could not consider his written evidence package if he could not confirm when he sent it to the tenant, along with the tracking number. He then began reading out letters from his written evidence package after I notified him that I could not consider it. He then began arguing with me as to why I would not consider the evidence. When I notified him two more times why I could not consider the package, he continued to argue with me.

### Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

*7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In the absence of any appearance by the tenant, I order the tenant's application dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, if I dismiss the tenant's application to cancel a 1 Month Notice, the landlord is entitled to an order of possession if the notice meets the requirements of section 52 of the *Act*.

Preliminary Issue – Use of Speakerphone and Inappropriate Behaviour by the Landlord during the Hearing

Rule 6.10 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

*6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*

*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

This hearing began at 11:00 a.m. and ended at 11:15 a.m. At the outset of the hearing, I asked the landlord to remove his phone from speakerphone. I informed him that I was not able to hear properly because the speakerphone was causing echoing and feedback on the line and if I was unable to hear properly, I could not conduct the conference. The landlord then disconnected from the conference and called back immediately at approximately 11:03 a.m., after he removed his phone from speakerphone.

Throughout the conference, the landlord interrupted me and argued with me. He would not listen to my directions to stop this behaviour. He began making rude comments to me about how he was not a lawyer or a legal advocate so he did not know how these hearings worked. I notified him that as the Arbitrator, my role was to conduct the conference and obtain testimony from the parties. I informed him that he was to respect me and allow me to speak in order to properly conduct the conference. The landlord then began muttering rude comments to me because he was upset by my directions.

I cautioned the landlord three times to stop interrupting me and allow me to speak so that he could understand my directions. He would not allow me to speak and continued to interrupt me. I cautioned him that I would end the conference and he would not be able to obtain an order of

possession if he did not allow me to conduct the conference and obtain verbal testimony from him. The landlord continued with his disruptive, rude and inappropriate behaviour.

During the hearing, the landlord stated that he did not have a copy of the 1 Month Notice in front of him, despite the fact that he issued the notice in his own name. He also did not have the appropriate tenancy details in front of him because he could not recall the tenancy start date. As I was unable to confirm the information on the notice to determine whether it complied with section 52 of the *Act* and I was unable to conduct the conference properly due to the landlord's disruptive behaviour, I do not issue an order of possession to the landlord.

Due to the fact that the landlord would not stop interrupting me and I could not conduct the conference properly, and given the landlord's rude, inappropriate and disruptive behaviour contrary to Rule 6.10 of the RTB *Rules of Procedure*, I ended the conference at 11:15 a.m., after informing the landlord that I was doing so.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord is not entitled to an order of possession.

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 19, 2018

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Residential Tenancy Branch