



# 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 for cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47 of the *Residential Tenancy Act* ("the *Act*").

The landlord and the tenant attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

While I have turned my mind to all the documentary evidence, including the testimony of the parties and witness testimony, not all details of the respective submissions and/or arguments are reproduced here.

The landlord acknowledged receipt of the Application for Dispute Resolution (the Application) and evidentiary package sent to the landlord by way of registered mail on January 08, 2018. In accordance with sections 88 and 89 of the *Act*, I find the landlord was duly served with the Application and evidentiary package.

The landlord confirmed that they did not submit any evidence to the Residential Tenancy Branch or to the tenant.

The Tenant confirmed that they received the One Month Notice on January 01, 2018, which was posted to the door of the rental unit on December 28, 2017. In accordance with sections 88 and 90 of the *Act*, I find the tenant was deemed served with the One Month Notice on December 31, 2017.

### Issue(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

The tenant provided written evidence that this tenancy began on November 01, 2016, with a current monthly rent of \$800.00, due on the first day of each month. The landlord confirmed that they currently retain a security deposit in the amount of \$400.00.

The tenant also provided a copy of the signed landlord's One Month Notice dated December 28, 2017. In the One Month Notice, requiring the tenant to end this tenancy by February 01, 2018, the landlord cited the following reason for the issuance of the One Month Notice:

*Rental unit/site must be vacated to comply with a government order*

The landlord testified that the rental unit is one of two buildings on the landlord's property and that both buildings contain rental units. The landlord submitted that they have received an order from the municipality, where the rental unit is located, that it must be vacated as they are only permitted to have one rental unit on the property.

The tenant testified that they have not seen any documentation to confirm that the landlord has an order from the municipality requiring the rental unit to be vacant.

### Analysis

Section 47 of the *Act* allows a landlord to issue a Notice to End Tenancy for Cause to a tenant if the landlord has grounds to do so. Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the One Month Notice. As the tenant disputed this notice on January 06, 2018, and since I have found that the One Month Notice was deemed received by the tenant on December 31, 2017, I find the tenant has applied to dispute the One Month Notice within the time frame provided by section 47 of the *Act*.

I find the landlord bears the burden of proof to demonstrate that they have a government order requiring the rental unit to be vacant.

I have reviewed all documentary evidence and affirmed testimony and I find that the landlord has not provided any evidence of a government order that requires the rental unit to be vacant and has failed to prove that they have sufficient cause to issue the One Month Notice to the tenant.

For the above reasons, the One Month Notice is set aside and this tenancy continues until it is ended in accordance with the *Act*.

### Conclusion

The tenant is successful in their Application.

The One Month Notice dated December 28, 2017, is cancelled and of no force or effect.

This tenancy will continue 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: March 26, 2018

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Residential Tenancy Branch