



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC OPC

### **Introduction**

Both parties attended the hearing and gave sworn or affirmed testimony. The One Month Notice to End Tenancy is dated March 20, 2018 to be effective April 30, 2018 and the tenant confirmed it was served by posting it on the door on March 20, 2018. The tenant /applicant gave evidence that they served the Application for Dispute Resolution dated March 22, 2018 by registered mail. The landlord said they received only a five page fact sheet and a letter but no Application with the Notice of the Hearing for today. They called the Residential Tenancy Branch to get the information. I find the landlord was not legally served for the purposes of this hearing. 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;

### **Issue(s) to be Decided:**

Should the tenant's application be dismissed for lack of service? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### **Background and Evidence**

The problem of lack of service was discussed at the outset of the hearing and the landlord requested the tenant's Application be dismissed. However she was prepared to discuss a settlement with the tenant regarding the effective date of the Order of Possession. The landlord served a Notice to End Tenancy for the following reason:

- a) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant said she understood that a number of other tenants had complained. However, she agreed that if she was granted some extra time to move, she would ensure there were no more disturbances. She explained that the male who was the

major problem has gone and she will not allow him to return. Her doctor has advised her that she must care for herself and her children first and not yield to pleas from someone who says they need help.

The landlord said that on the basis of these promises, she is willing to exercise her discretion and ask that the effective date of the Order of Possession be June 30, 2018.

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

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**Analysis:**

As discussed with the parties in the hearing, the tenant's application is dismissed for lack of legal service. In these circumstances, section 55 of the Act provides the landlord is entitled to an Order of Possession.

Pursuant to the negotiations between the parties, I find the landlord entitled to an Order of Possession effective June 30, 2018.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed; the filing fee was waived. The tenancy is at an end on April 30, 2018. An Order of Possession is issued to the landlord effective June 30, 2018. .

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: April 18, 2018

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Residential Tenancy Branch