



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This decision pertains to the Tenant's application for dispute resolution made on May 25, 2018, under the *Residential Tenancy Act* (the "Act"). The Tenant sought to cancel a One Month Notice to End Tenancy for Cause (the "Notice").

The Tenant and her legal advocate (the "Advocate") attended the hearing before me and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The Landlord did not attend.

The Tenant testified that they served the Notice of Dispute Resolution Proceeding package (the "package") on the Landlord by registered mail to the Landlord's address of service, and the package was received at the post office on May 28, 2018. The Landlord appeared not to have picked up the package.

The Tenant served the Landlord the package a second time, in-person, on June 26, 2018. The Tenant served the Landlord's husband, who acts as the Landlord's agent in residential tenancy matters. The husband took the package, literally tossing it away.

I find that the Landlord was served with the package pursuant to subsections 89 (1) (a) and 89 (1) (c) of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

### Issues to be Decided

1. Is the Tenant entitled to an order cancelling the Notice?
2. If the Tenant is not entitled to an order cancelling the Notice, is the Landlord entitled to an order of possession under section 55 of the Act?

### Background and Evidence

The Tenant received the Notice on or about May 20, 2018 (the Notice does not indicate how it was served on the Tenant) and was issued for the Tenant being repeatedly late paying rent. The Notice had an end of tenancy date of June 20, 2018. The Tenant applied for dispute resolution shortly after being served.

### Analysis

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the notice is based. The Landlord did not appear at this hearing to prove their cause as alleged in the Notice. (The hearing started at 11:00 a.m. and ended at 11:11 a.m.)

Therefore, the Landlord's Notice, dated May 20, 2018, is cancelled and of no force or effect. The Landlord is not entitled to an order of possession under section 55 of the Act. This tenancy will continue until it is ended in accordance with the Act.

### Conclusion

I hereby order that the Landlord's Notice, dated May 20, 2018, is cancelled and of no force or effect. The tenancy continues 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 Act.

Dated: July 11, 2018

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Residential Tenancy Branch