



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

STREET MANAGEMENT & WALL STREET HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This decision is in respect of the tenant's application for dispute resolution under the *Residential Tenancy Act* (the "Act"), and for which the tenant seeks an order cancelling two One Month Notice to End Tenancy for Cause (the "Notices").

The tenant and his legal advocate attended the arbitration hearing, were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The landlord's agent did not attend the hearing.

The legal advocate testified that they served the landlord with the Notice of Dispute Resolution Proceeding package by Canada Post registered mail. I therefore find that the landlord was served pursuant to section 89(1)(c) of the Act.

While I have reviewed all oral and documentary evidence submitted that met the requirements of the *Rules of Procedure* and to which I was referred, only evidence relevant to the issues of this application is considered in my decision.

I note that section 55 of the Act requires that when a tenant applies for dispute resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the application is dismissed and the landlord's notice to end tenancy complies with the Act.

### Issues to be Decided

1. Is the tenant entitled to an order cancelling the Notices?
2. If the tenant is not entitled to an order cancelling the Notices, is the landlord entitled to an order of possession pursuant to section 55 of the Act?

### Background and Evidence

The tenant submitted into evidence two One Month Notice to End Tenancy for Cause. One Notice was signed by the landlord's agent on August 23, 2018, with an effective end of tenancy date of September 30, 2018. The other Notice was signed by the landlord's agent on August 29, 2018, and which also had an effective end of tenancy date of September 30, 2018.

Both Notices list the Details of Cause as "Unlawfully and without reason damaged the ceiling, removed the fire barrier, thus imposing a significant fire risk."

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

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's agent did not appear at the hearing to prove its cause as alleged in the Notices.

As such, the Notices, dated (and signed) August 23, 2018, and August 29, 2018, are cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the Act, and the tenancy will continue until it is ended in accordance with the Act.

### Conclusion

I grant the tenant an order cancelling the Notices. The Notices are cancelled and of no force or effect. The tenancy will continue until it is ended in accordance with the Act.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: October 19, 2018

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Residential Tenancy Branch