



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDCT, OLC, PSF, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (“application”) under the *Residential Tenancy Act* (“Act”) by the tenant to cancel a 1 Month Notice to End Tenancy for Cause dated August 14, 2018 (“1 Month Notice”), for a monetary claim of \$1,864.00 for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, for an order directing the landlord to provide services or facilities required by the tenancy agreement or law, and to recover the cost of the filing fee under the *Act*.

The tenant and the landlord attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me. I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (“Rules”). However; only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither party raised any concerns regarding the service of documentary evidence.

### Preliminary and Procedural Matters

Rule 2.3 of the Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance, the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the 1 Month Notice. I find that not all the claims on this application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant’s request to set aside the 1 Month Notice and the tenant’s application to recover

the cost of the filing fee at this proceeding. The balance of the tenant's application is **dismissed, with leave to re-apply.**

In addition, the parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be emailed to both parties.

#### Issue to be Decided

- Should the 1 Month Notice cancelled?
- Are the tenants entitled to the recovery of the cost of the filing fee under the *Act*?

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on August 1, 2018 does not revert to a month to month tenancy until August 1, 2019. Monthly rent in the amount of \$600.00 is due on the first day of each month. A security deposit of \$300.00 was paid by the tenant at the start of the tenancy.

The parties agree that a 1 Month Notice was received and disputed by the tenant on the same date, August 14, 2018. The 1 Month Notice is missing the effective vacancy date and also has the incorrect tenant name listed on the 1 Month Notice.

In the 1 Month Notice, the landlord has alleged two causes. The causes listed are:

1. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.
2. Tenant has not done required repairs of damage to the unit/site.

The landlord writes in the "Details of Cause(s)" section of the 1 Month Notice the following:

"[Tenant] installed AC into bedroom suite window by removing window screen & screws without permission or information to us. It was done July 25<sup>th</sup> as he moved in too early into suite on July 24<sup>th</sup>. He was told to remove AC & fix window on July 30 and finish it by Aug 6. But he did not fix anything. Lots of other small issues with tenant every other day."

[Reproduced as written except for anonymizing name of tenant]

The tenant denies damaging the rental unit.

The landlord confirmed that documentary or digital evidence such as photos of the alleged damage were not submitted in evidence. The parties were advised that I had no documentary or digital evidence before me submitted by the landlord to support the causes listed. In addition, the landlord confirmed that the police were not called to attend the rental unit and that a police file was not opened regarding this matter.

### Analysis

Based on the above and taking into account the testimony provided and the documentary evidence and on a balance of probabilities, I find as follows.

Firstly, the landlord made two errors on the 1 Month Notice. The landlord neglected to include an effective vacancy date and incorrectly used the middle name of the tenant instead of the tenant's surname.

Secondly, the tenant disputed the 1 Month Notice on August 14, 2018 which is within the ten day timeline provided for under section 47 of the *Act* to dispute a 1 Month Notice. Once a 1 Month Notice is disputed, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid. The landlord failed to serve any supporting documentary or digital evidence to support the two causes listed and admitted that the police were not called to attend the rental unit and have not provided a police file number regarding this matter. In addition, the tenant disputes that they have damaged the rental unit.

Based on the above, I find the landlord has provided insufficient evidence to prove that the 1 Month Notice is valid. Therefore, **I cancel** the 1 Month Notice dated August 14, 2018 as the landlord has not met the burden of proof to prove that the 1 Month Notice is valid.

**I ORDER** the tenancy to continue until ended in accordance with the *Act*.

As the tenant's application is successful, I grant the tenant a one-time rent reduction in the amount of **\$100.00** in full satisfaction of the recovery of the cost of the filing fee pursuant to section 67 and 72 of the *Act*.

Conclusion

The tenant's application is successful.

The portion of the tenant's application that was severed as described above is dismissed with leave to reapply.

The 1 Month Notice issued by the landlord dated August 14, 2018 is cancelled and is of no force or effect. The tenancy shall continue until ended in accordance with the *Act*.

The tenant has been granted a one-time rent reduction in the amount of \$100.00 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 67 and 72 of the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: September 25, 2018

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Residential Tenancy Branch