



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0781178BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

On September 20, 2018, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing with R.K. and W.P. as his advocates. D.D. and L.C. attended the hearing as agents for the Landlord. All parties provided a solemn affirmation.

The Tenant advised that he served the Notice of Hearing package in person to the Landlord on September 22, 2018 and the Landlord confirmed that he received this package. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

Both the Tenant and the Landlord confirmed that they received each other’s late evidence and that they were prepared to respond. Even though neither party complied with Rules 3.14 and 3.15 of the Rules of Procedure with respect to service of evidence, as both parties were prepared to respond to the evidence, I have accepted and considered both parties’ evidence when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application 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 has issued a notice to end tenancy that complies with the *Act*.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

#### Background and Evidence

Both parties could not agree on when the tenancy started but it began sometime between 2008 and 2011. Rent was currently \$375.00 per month, due on the first of each month and a security deposit of \$187.50 was paid.

Both parties provided differing testimony with respect to when and how the Notice was served. The Tenant stated that the Notice was hand delivered to him on September 14, 2018 and the Landlord stated that the Notice was posted to the door on September 20, 2018. While the Notice was not dated under the Landlord's signature, which is a requirement of Section 52 of the *Act*, as both parties confirmed that this Notice was served and that the Notice was disputed within the required legislated timeframe, I was satisfied of service of the Notice and that the hearing could continue.

The reasons the Landlord served the Notice are because the "Tenant has engaged in illegal activity that has, or is likely to: damage the landlord's property" and "jeopardize a lawful right or interest of another occupant or the landlord." The Notice indicated that the effective end date of the Notice was October 15, 2018.

The Landlord advised that the Tenant caused a fire in the rental unit three years ago that cost \$1,000.00 to repair and that he caused another fire on September 14, 2018 that was more substantial. The Landlord had difficulty explaining the cause of the fire but mentioned a heater and that the Tenant had an excessive number of appliances plugged into a power bar, which he speculated sparked the fire. He advised that he did

not have any evidence from the fire department to corroborate that this was the cause of the fire.

The Landlord also submitted that the Tenant had a lot of personal items that cluttered the rental unit and that the Tenant would unplug the smoke detector. He advised that the Tenant was cautioned to correct these issues; however, he did not provide any evidence to support this.

The Tenant advised that there was no fire report indicating that this fire was caused due to the actions of the Tenant. He stated that he gets an electrical shock when he turns on the light, that there have been ongoing issues with the fire panel in the building, and that the fuses in the building were not working properly and had to be constantly switched back on. The Tenant advised that he only had two lamps and a clock plugged into the power bar and that this was not excessive. He stated that the fire inspector advised him that this fire was not his fault and the Tenant suggested that the issues with the electrical wiring in the building were responsible for the fire.

The Landlord stated that there was nothing wrong with the building or the electrical wiring. He also advised that other tenants of the building were displaced due to the water damage as a result of putting out the fire.

### Analysis

With respect to the Notice served to the Tenant, I have reviewed this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. While the Notice was not dated under the Landlord's signature, which is a requirement of this Section, as both parties confirmed that this Notice was served, I am satisfied that this Notice meets the requirements of Section 52.

With respect to the validity of the reasons indicated on the Notice, the onus is on the party issuing the Notice to substantiate the reasons for service of the Notice. While the Landlord has submitted some pictures into evidence and provided testimony to support his arguments, I do not find that the evidence provided is compelling or corroborates that the Tenant was negligent and caused the fire. As such, I am not satisfied that the Landlord has properly substantiated the grounds for ending the tenancy. Therefore, I am not satisfied of the validity of the Notice. Ultimately, I find that the Notice is of no force and effect.

Conclusion

Based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of September 2018 to be cancelled and of no force or effect.

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: November 5, 2018

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Residential Tenancy Branch