



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

Landlord: OPC OPR FF

Tenant: CNC OLC PSF MNDC

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on November 5, 2018.

The Landlord and the Tenant both attended the hearing. All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Residential Tenancy Act* (the “Act”), a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in both applications deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on the Tenant’s application with the exception of the following ground:

- to cancel a 1-Month Notice for Cause (the “1 Month Notice”).

Further, since the issues that the Landlord has cross-applied for all relate to whether or not the tenancy will end and to the order of possession, they will be considered in this hearing.

### Service of Documents

The Landlord stated she served the Tenant with a copy of her application package, Notice of Hearing, and evidence by registered mail. The Tenant acknowledged getting this package. I find the Landlord sufficiently served this package to the Tenant. However, the Landlord also submitted further evidence to the Residential Tenancy Branch on October 30, 2018, in support of her application. However, as stated in the hearing, this evidence was served late, and the applicant/Landlord was required to serve the respondent and the Residential Tenancy Branch no later than 14 days before the hearing, pursuant to section 3.14 of the Rules of Procedure. As these 3 pages of evidence were not served in accordance with the Rules of Procedure, I will not consider them.

The Tenant stated that he served his application, evidence and Notice of Hearing in person to the Landlord. The Landlord stated that the Tenant never served her as he indicated and the only thing he gave her was one page, which was a screen print of sorts (showing the file number and summary information). The Landlord stated that she never got any evidence from the Tenant, and never received a Notice of Hearing from the Tenant, explaining what he was seeking in this hearing. The Tenant did not bring a witness with him, nor did he have any further evidence showing he served his application and evidence to the Landlord.

During this hearing, I had a detailed conversation with both parties about service of different documents (application/Notice of Hearing, and evidence). I also had the opportunity to discuss several of the issues which led to the 1-Month Notice, and I had initially indicated that the hearing would be adjourned so that more time could be scheduled to hear further information with respect to the reasons behind the 1-Month Notice. However, after the hearing, and after further consideration of the evidence and the testimony at the hearing, I find an adjournment is not required, since I am not satisfied that the Landlord has been sufficiently served with the Tenant's application/Notice of Hearing. The Tenant failed to provide corroborating evidence to substantiate service of his application and evidence. The onus is on the applicant to prove they have served the other party with their documentation.

As the Tenant's Notice of Hearing has not been sufficiently served for the purposes of this *Act*, I dismiss the Tenant's application in full.

Under section 55 of the *Act*, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the Landlord an order of possession. I find that the Notice complies with the requirements of form and content.

Further, given my findings thus far, it is not necessary to consider the details supporting the grounds on the 1 Month Notice, and as stated above, it is also not necessary to hold a second hearing to hear the remaining issues behind the 1 Month Notice. Also, since the tenancy is ending, it is not necessary to consider the Landlord's application for an order of possession based on a 10-Day Notice to End Tenancy for Unpaid Rent.

### Conclusion

The Tenant's application to cancel the 1-Month Notice to End Tenancy for Cause is dismissed.

The Landlord is granted an order of possession effective **November 30, 2018, at 1pm**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 06, 2018

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Residential Tenancy Branch