



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (One Month Notice) pursuant to section 47 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant attended with her son and two advocates, K.B. and K.N.. The landlord's agent attended on behalf of the landlord.

As both parties were present, service of documents was confirmed. The landlord confirmed receipt of the tenant's application for dispute resolution and evidence, served on the landlord by Canada Post registered mail. As such, I find that the landlord was served with the notice of this hearing and the tenant's evidence in accordance with section 89 of the *Act*.

The landlord stated that he had served the tenant with his evidence by placing it through the tenant's mail slot. The tenant stated that they did not receive the landlord's evidence, other than a letter dated October 22, 2018. Therefore, I advised the parties that I would not consider the landlord's submitted evidence, other than the aforementioned letter dated October 22, 2018, however the landlord could provide verbal testimony regarding the submitted evidence for my consideration.

### Procedural Matters

I explained to the parties 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 tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

Further to this, the parties were advised that the standard of proof in a dispute resolution hearing is on a balance of probabilities. Usually the onus to prove the case is on the person making the claim. However, in situations such as in the current matter, where a tenant has applied to cancel a landlord's Notice to End Tenancy, the onus to prove the reasons for ending the tenancy transfers to the landlord as they issued the Notice and are seeking to end the tenancy.

#### Issue(s) to be Decided

Should the landlord's One Month Notice be cancelled? And if not, is the landlord entitled to an Order of Possession?

#### Background and Evidence

No written tenancy agreement was submitted into documentary evidence. The parties confirmed their understanding of the following terms of the tenancy agreement:

- This month-to-month tenancy began in July or August 2010.
- Current monthly rent of \$1,294.00 is subsidized and paid directly to the landlord.
- The tenant paid a security deposit of \$537.00 at the beginning of the tenancy, which continues to be held by the landlord.

The tenant submitted into evidence a copy of the One Month Notice dated October 22, 2018, which states an effective move-out date of November 30, 2018, with the following boxes checked off as the reason for seeking an end to this tenancy:

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonable disturbed another occupant or the landlord.*

*Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.*

I note that the landlord has provided the following comments in the "Details of Cause" section provided on the form.

*Tenant has allowed unit to deteriorate & hoards items causings [sic] smells & issues with insects & rodents. Also disturb other tenants with smells in hallways.*

The landlord's agent testified that the One Month Notice was served to the tenant by leaving it in the tenant's mailbox on October 22, 2018. The tenant acknowledged receiving the One Month Notice on October 22, 2018, therefore I find that the One Month Notice was deemed received by the tenant on that day.

The tenant filed an Application to dispute the One Month Notice on October 25, 2018.

The landlord explained the concerns that gave rise to the issuance of the One Month Notice. The tenant expressed her desire for assistance with housekeeping in the rental unit, due to her disabilities, and her willingness to engage private house cleaning services at this time, with the goal of her advocates obtaining funding for the house cleaning services in future.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute, and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of the issue currently under dispute at this time:

1. The tenant agrees to engage weekly private house cleaning services at her own cost, for three hours per week at an approximate cost of \$60.00, to assist her son in maintaining the cleanliness of the rental unit, in order to address the issue of smells, clutter and unsanitary conditions pertaining to the rental unit.
2. The tenant agrees to continue to cooperate with her advocates and support workers in following their direction and advice to maintain cleanliness and sanitary conditions in the rental unit, which includes permitting access to the rental unit, with proper notice provided under the *Act*, for inspections of the rental unit or for cleaning purposes.
3. The tenant will provide the landlord with receipts for the paid house cleaning service, on an ongoing basis, as proof that cleaning services have been undertaken and that the services will continue in place on an ongoing basis. Should the tenant obtain subsidized or funded cleaning services in future, this term of the settlement is rescinded upon the tenant providing proof that a contract for funded cleaning services is in place.
4. Both parties agreed that the terms of this settlement as outlined above constitute a final and binding resolution of the tenant's application for dispute resolution filed on October 25, 2018, and the landlord's One Month Notice to End Tenancy for Cause dated October 22, 2018. As such, the tenant's application is dismissed in its entirety, and the landlord's One Month Notice is cancelled and is of no force or effect.
5. The parties agreed to the terms of this settlement free of any duress or coercion.

The parties are still bound by all of the rights, responsibilities, terms, conditions and any statutory compensation provisions of the tenancy agreement, the *Act*, and the associated regulations.

Conclusion

To give effect to the settlement reached between the parties and as advised to both parties during the hearing, I issue the following Order to the tenant:

**I Order the tenant to obtain weekly house cleaning services for three hours per week on an ongoing basis, and to provide receipts to the landlord as proof of the ongoing service.**

Should the tenant fail to comply with this Order, the landlord may serve the tenant with a One Month Notice to End Tenancy for Cause for the following reason:

*Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order.*

The tenant's application for dispute resolution dated October 25, 2018 is dismissed in its entirety.

The landlord's One Month Notice to End Tenancy for Cause dated October 22, 2018 is 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: December 04, 2018

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Residential Tenancy Branch