Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FFT, ERP, LAT, OT

Introduction

This hearing dealt with an Application for Dispute Resolution (the "Application") that was filed by the Tenant under the *Residential Tenancy Act* (the "Act"), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the "One Month Notice");
- Recovery of the filing fee;
- An order for the Landlord to complete emergency repairs for health and safety reasons;
- An order restricting or setting conditions on the Landlord's right to enter the rental unit; and
- Other unspecified matters.

I note that section 55 of the *Act* requires that when a tenant submits an Application 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 is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Tenant, an occupant of the rental unit (D.G.), the Landlord, and two witnesses for the Landlord. All attendees were affirmed. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties also confirmed service and receipt of the Application, Notice of Hearing and all documentary evidence before me for consideration in accordance with the *Act* and the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure").

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be sent to them by both regular mail and e-mail at the addresses provided in the hearing.

Preliminary Matters

Preliminary Matter #1

At the outset of the hearing I identified that the Applicant D.G. is not listed as a tenant on the most recent tenancy agreement in the documentary evidence before me for consideration and questioned the parties about D.G.'s status as a tenant or an occupant of the rental unit.

The Residential Tenancy Branch (the "Branch") does not have broad authority to hear all matters involving one or more parties and only has the jurisdiction to hear and decide matters between landlords and tenants as defined by the *Residential Tenancy Act* and the *Manufactured Home Park Tenancy Act*. D.G. is not listed as a tenant in the current tenancy agreement and the Landlord testified that she is not in fact a tenant. However, G.W. stated that except for a brief period of time, D.G. has always resided in the rental unit since July of 2013. When asked, D.G. confirmed that she does not pay rent in her own name to the Landlord and simply gives her half of the rent to G.W. Further to this, G.W. confirmed that when the most recent tenancy agreement was entered into in May of 2018, he was listed as the only tenant. Although the Tenants stated that a previous arbitrator advised them that G.W. is in fact a Tenant, they stated that this finding was verbal and that as of the date and time of the hearing, there is no written record of it as the hearing was adjourned and no final decision has been rendered in regards to that application. The Tenants also provided me with the file number for that matter.

In support of her position that D.G. is not currently a tenant, the Landlord pointed to a letter in the documentary evidence before me to her from D.G. dated November 1, 2014, wherein G.W. requests a new tenancy agreement wherein D.G. is not listed as a tenant.

Although D.G. and G.W. testified that a previous arbitrator has already found that D.G. is currently a tenant of the rental unit, they did not submit any documentary evidence in support of this testimony. I checked both the Interim Decision issued by the arbitrator for the file number given to me by the Tenant's, and the subsequent decision rendered by that arbitrator, and although both G.W. and D.G. are listed as Tenants in that decision, nothing in either decision address whether any arguments were raised or considered in

that matter regarding whether D.G. is in fact a Tenant and it does not appear to me, from either decision, that this matter was squarely before that arbitrator in that matter. As a result, I am not satisfied that a finding in this matter has already been made by another arbitrator and I accept jurisdiction and authority to render a decision in relation to whether or not D.G. is in fact a tenant or an occupant of the rental unit. Based on the letter dated November 1, 2014, the agreement between the parties in the hearing that the current tenancy agreement in effect does not list D.G. as a tenant, and the affirmed testimony from D.G. that she does not pay any rent in her name to the Landlord, I find on a balance of probabilities, that D.G. is not a tenant under the *Act* and instead, is an occupant of the rental unit. Based on the above, I find that D.G. is not a party to this dispute and I amend the Application to name only G.W. as the Tenant and Applicant in this matter. As a result, only the Applicant G.W. will be referred to as the "Tenant" in this decision and D.G will be referred to as the "occupant".

Preliminary Matter #2

In their Application the Tenant sought multiple remedies under multiple sections of the *Act*, a number of which were unrelated to one another. However, the Tenant withdrew their Application seeking emergency repairs, with the Landlord's consent, as the parties agreed that this matter is already before another arbitrator. 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.

As the Tenant applied to cancel a One Month Notice, I find that the priority claims relate to whether the tenancy will continue or end and recovery of the filing fee. I find that the other claims by the Tenant are not sufficiently related to the One Month Notice or continuation of the tenancy and as a result, I exercise my discretion to dismiss the following claims by the Tenant with leave to reapply:

- An order restricting or setting conditions on the Landlord's right to enter the rental unit; and
- Other unspecified matters.

As a result, the hearing proceeded based only on the Tenant's Application seeking cancellation of a One Month Notice and recovery of the filing fee.

Preliminary Matter #3

Although the parties engaged in settlement discussions during the hearing, ultimately a settlement agreement could not be reached between them. As a result, I proceeded with the hearing and rendered a decision in relation to this matter under the authority delegated to me by the Director of the Residential Tenancy Branch (the "Branch") under Section 9.1(1) of the *Act*.

Preliminary Matter #4

Although the Landlord was given the opportunity to call their witnesses at any time during the hearing, and was specifically offered the opportunity to call their witnesses prior to reaching the sixty minute mark of the scheduled one hour hearing, the Landlord chose to hold off on calling their witnesses so as to provide their own evidence and testimony first. Due to the complexity of the matters, the hearing took significantly longer than one hour to complete and both witnesses exited the hearing without notice prior to the end of the hearing or to providing any oral testimony for my consideration. The witnesses did not call back into the hearing on their own and the Landlord did not call them back to provide any evidence or testimony for my consideration in these matters.

Issue(s) to be Decided

Is the Tenant entitled to cancellation of the One Month Notice?

Is the Tenant entitled to recovery of the filing fee?

If the Tenant is not successful in cancelling the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Act*?

Background and Evidence

The parties agreed that both D.G and G.W. have resided in the rental unit under several tenancy agreements since July 1, 2013, the most recent of which was entered into by only G.W. on May 1, 2016. The most recent tenancy agreement in the documentary evidence before me states that rent in the amount of $1,124.20 is due on the first day of each month and includes water, free laundry, storage, garbage, and parking for 2 vehicles.

The Landlord testified that a One Month Notice to End Tenancy for Cause (the "One Month Notice") was posted to the door of the rental unit on September 25, 2018, and the Tenant acknowledged receipt on that date. The One Month Notice in the documentary evidence before me, dated September 25, 2018, has an effective vacancy date of October 31, 2018, and states the following grounds for ending the tenancy:

- The Tenant is repeatedly late paying rent;
- The Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- The Tenant or a person permitted on the property by the tenant has seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
- The Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
- The Tenant has not done required repairs of damage to the unit/site; and
- The Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so was given.

The Tenant filed their Application seeking cancellation of the One Month Notice on October 4, 2018, and all parties agreed that rent for November of 2018 was paid in full.

Although both parties provided significant documentary evidence and testimony for my consideration in relation to the One Month Notice as well as the tenancy in general, for the sake of clarity and brevity I have summarized below only the evidence and testimony before me for consideration which I found to be relevant to the grounds upon which the One Month Notice was based and any necessary findings of fact.

The parties agreed that since May 1, 2016, there have been two rent increases but disagreed on the amounts stated on the Notice of Rent Increase forms and whether these rent increase amounts complied with the *Act* and regulation. While the parties agreed that a Notice of Rent Increase was served increasing the rent effective May 1, 2017, they disagreed about the amount of this increase. During the hearing the Landlord provided inconsistent and contradictory testimony about the amount listed in the first Notice of Rent Increase. At first she testified that it was $1,156.79, which the Tenant and occupant agreed is correct. Then after hearing testimony from the Tenant and occupant that this amount was less than the maximum amount allowable under the *Act* upon which she based a subsequent Notice of Rent Increase, she changed her testimony stating that it was actually $1,165.79, which the Tenant and occupant disputed. The Parties also agreed that a second Notice of Rent Increase was served, effective September 1, 2018, increasing the rent to $1,212.43. While the parties agreed that the Tenants had paid $1,156.79 on time and in full since the first Notice of Rent

Increase became effective, the Landlord stated that this is actually less $9.01 less than the $1,165.79 owed and therefore the Tenant's technically paid rent late for 14 months.

The Tenant and occupant denied paying rent late stating that they dutifully paid, $1,156.79, the amount listed on their Notice of Rent Increase, in full and on-time each month via a series of post-dated cheques given to the Landlord at the time the first Notice of Rent Increase took effect. The Tenant and occupant testified that the Landlord failed to increase their rent to the maximum 3.7% allowable on their first Notice of Rent Increase, which she only noticed when she issued their second Notice of Rent Increase, and that this pattern of "late payment" alleged by her is actually the difference between what she *actually* charged on the first Notice of Rent Increase and what she *could* have charged, not an actual late or underpayment of rent owed according to the first Notice of Rent Increase. As a result, they denied the allegations that they ever paid their rent late. In any event, the Tenant and occupant stated that in a desire not to make waves, they paid the Landlord $126.00 on June 12, 2018, covering the $9.01 the Landlord wanted for each month since May 1, 2017, despite the fact that she was not legally entitled to it, and that they have not disputed the current rent increase effective September 1, 2018, increasing their rent to $1,212.43. Neither party submitted copies of either Notice of Rent Increase.

The Landlord testified that the Tenant and/or the occupant breached material terms of the tenancy agreement by smoking in the rental unit and having a pet bird. The Landlord stated that although the Tenant alleges to have a tenancy agreement stating that a bird is acceptable, a copy of which is in the documentary evidence before me for consideration, this clause is a forgery on the part of the Tenant and or the occupant as they have never been permitted to keep a pet in the rental unit. The Landlord stated that a breach letter was served on the Tenants in May of 2018, but could not provide me with the date and the Tenant and occupant disputed receipt of this letter.

The Tenant agreed that they have a bird but stated that as per the copy of the tenancy agreement they submitted, they are permitted to have a bird. The occupant also agreed that she used to smoke on the balcony of the rental unit but stated that it was permitted under the previous tenancy agreement and that when the terms of the tenancy agreement changed, she ceased smoking anywhere in the rental unit, including on the balcony. The occupant testified that a picture of a cigarette butt can provided by the Landlord shows the can she previously used when smoking on the balcony, which was given to her by the Landlord as smoking was allowed on the balcony at that time, and that cigarette butts located around the property are actually from customers of the retail rental units in the building. As a result, the Tenant argued that neither he, nor the

occupant have breached any of the terms of the tenancy agreement, let alone a material term of the tenancy agreement.

The Landlord addressed all three of the grounds relating to significant interference and unreasonable disturbance, jeopardy to the health, safety or lawful right of another occupant or the landlord, and whether the Tenant or a person permitted on the property by the Tenant has put the landlord's property at significant risk together as follows. The Landlord argued that the Tenant and the occupant put the Landlord's property at significant risk by being friends with and supporters of another group of tenants residing in a separate rental unit under a separate tenancy agreement, who the Landlord alleged were engaged in illegal drug activity. The Landed stated that the illegal drug activity of the other tenants put the property at risk and that the Tenant and occupant thereby also put the property at risk by knowing and associating with these other tenants. Despite the foregoing, the Landlord acknowledged that neither the Tenant nor the occupant was engaged in this illegal drug activity. The Landlord also stated that the occupant threw a burning cigarette off of the balcony in September of 2014, which landed on the window sill below, and was a serious fire risk to the property. Further to this, the Landlord testified that the Tenant and occupant removed and or tampered with the smoke alarm/carbon monoxide detector in the rental unit on several occasions between 2014 and 2018, putting the Tenant, the property and other occupants of the building at risk. The Landlord stated that the Tenant and occupant did such things as disconnect wires and put expired batteries in backwards.

The Tenant and occupant stated that many years ago, they made an error and temporarily disconnected the fire alarm for several months in 2013 but that it has been connected and in good work order ever since and frequently goes off demonstrating that it works. The Tenant acknowledged removing tape placed on the smoke detector by the Landlord stating that it interferes with the smoke detector and that they also wanted to verify that the Landlord had not placed anything such as an audio of video device inside it. The Tenant and occupant however categorically denied tampering with the smoke detector including but not limited to putting expired batteries in backwards or tampering with wires.

The Landlord also testified that the Tenants have been aggressive and abusive towards her and patrons of the commercial occupants of the building for many years and that she and the commercial occupants, who are also her tenants, have been disturbed by the police in relation to the Tenant and occupant. The Tenant and occupant denied being abusive or aggressive towards the Landlord or patrons of the businesses stating that it is actually the Landlord who has been abusive towards them, hence the

involvement of the police. Overall the Tenant and occupant denied all of the Landlord's allegations stating that the Landlord is being vindictive and making untrue statements in an effort to evict them simply due to their friendship with previous other tenants and a previous failed attempt by her to obtain an unlawful $500.00 rent increase.

The Landlord provided no testimony in relation to the fifth ground for ending the tenancy listed above stating that the matter of repairs will be dealt with in a subsequent hearing.

Both parties submitted significant documentary evidence for my consideration in support of their testimony including but not limited to written submissions, e-mail and other correspondence, witness statements, and photographs.

Analysis

Based on the testimony of the parties in the hearing, I find that the Tenant was served with the One Month Notice on September 25, 2018, and disputed it within the allowable time period set forth in section 47 (4) of the *Act*.

Section 47 of the *Act* allows landlords to end a tenancy by serving a One Month Notice in accordance with the *Act*, if, among other things, the Tenant is repeatedly late paying rent; the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health, safety or lawful right of another occupant or the landlord or put the landlord's property at significant risk; the Tenant has not done required repairs of damage to the unit/site; or the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so was given.

Rule 6.6 of the Rules of Procedure states that the standard of proof in a dispute resolution hearing is on a balance of probabilities. Although the Tenant sought to dispute the One Month Notice served by the Landlord, rule 6.6 also states that when a tenant disputes a Notice to End tenancy, the landlord bears the burden to prove the reason they wish to end the tenancy. As a result, I find that the Landlord therefore bears the burden to satisfy me that it is more likely than not that they had the grounds to serve the One Month Notice being disputed by the Tenant.

While the Landlord argued that the Tenant was repeatedly late paying their rent, her argument was based primarily on the Tenant's failure to pay $9.01 of a rent increase each month over a 14 month period. However, she provided confusing and

contradictory testimony during the hearing about the actual amount listed in the Notice of Rent Increase served on the Tenant upon which this argument of late payment was based, did not submit copies of this or any other Notice of Rent Increase for my consideration, and did not submit any other records regarding this history of late payment such as rent receipts or a rent ledger. Further to this, The Tenant and occupant denied that they paid rent late or that their rent was increased to the amount claimed by the Landlord in the hearing. As a result, I find that the Landlord has failed to satisfy me, on a balance of probabilities, that the Tenants have repeatedly paid their rent late. Having made this finding, I will now turn my mind the matter of material terms.

Although the Landlord argued that the Tenant and occupant have breached material terms of the tenancy agreement by smoking and keeping a bird in the rental unit, not all terms in a tenancy agreement are material terms. Policy Guideline #8 states that a material term is a term that both parties agree is so important that the most trivial breach of that term gives the other party the right to end the agreement. In order to determine if a term is material or not, Policy Guideline #8 states that the Branch will focus on the importance of the term in the overall scheme of the tenancy agreement, as opposed to the consequences of the breach, as well as the facts and circumstances surrounding the creation of the tenancy agreement and that it falls to the person relying on the term to present evidence and argument supporting the proposition that the term is a material term.

In the hearing the parties disagreed about whether smoking was permitted in any portion of the rental unit at any time and whether the Tenant was permitted to keep a bird. They also submitted different copies of the tenancy agreement and addendum for my consideration. Further to this, the Landlord presented no documentary or other evidence to establish that the two particular terms relating to smoking and pets are in fact material terms of the tenancy agreement as opposed to regular terms of the agreement. As stated above, not all terms in a tenancy agreement are material terms and given the disagreement of the parties in the hearing regarding these terms, the conflicting tenancy agreements and addendums before me from the parties for consideration, and the lack of other evidence from the Landlord establishing that at the time the tenancy agreement was entered into, there was agreement between them that the most trivial breach of either term would give the other party the right to end the agreement; I find that the Landlord has failed to satisfy me, on a balance of probabilities, that the terms relating to pets or smoking in either tenancy agreement, regardless of which agreement is reliable and accurate, were in fact material terms.

Finally I will turn my mind to the matter of whether the Tenant or a person permitted on the property by the Tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Seriously jeopardized the health, safety or lawful right of another occupant or the landlord; or
- Put the landlord's property at significant risk

Although the Landlord argued that the Tenant and/or the occupant put the property at risk by associating with other tenants of the property who were engaged in illegal activity, she acknowledged that neither the Tenant nor the occupant were themselves engaged in illegal activity and I fail to see how that Tenant or the occupant can reasonably be found to have placed the Landlord's property at significant risk through friendship, support and association alone. Further to this, the Landlord has not submitted any documentary or other evidence which establishes that these other tenants were indeed engaged in activity on the rental property which was both illegal and a significant risk to the property.

Although the Landlord submitted documentary evidence in which she alleged that the occupant threw a cigarette outside burning a ledge of the building, the Tenant and occupant denied that this occurred. Although a letter from a salon owner, who is also a tenant of the Landlord and a commercial occupant of the building, was submitted by the Landlord in which the salon owner states that burning cigarette embers were found on the windowsill by one of their employees, this incident appears to be from September 14, 2016, and the letter does not state that anyone witnessed the Tenant, the occupant or anyone in the Tenant's rental unit smoking or disposing of cigarettes at that time. As a result, I find that the Landlord provided no documentary or other evidence which would clearly establish that the Tenant, the occupant, or a person permitted onto the property by the Tenant was in fact responsible for this incident. Further to this, this incident is from September 14, 2018, which is more than two years prior to the issuance of the One Month Notice, and as a result, I cannot reasonably conclude that the Landlord honestly believed that this incident either posed a serious risk to the property or that this incident would be sufficient grounds to serve or enforce the One Month Notice more than two years after its occurrence.

Although the Landlord alleged that the Tenant and occupant have tampered with the fire alarm/carbon monoxide detector on three occasions, the Tenant and occupant denied all but one instance of this, which occurred in 2013. While the Tenant did acknowledge removing tape that the Landlord placed around the exterior of the alarm, and the

Landlord provided copies of several letters to the Tenant regarding her findings during inspections, the Landlord failed to provide any documentary evidence in support of her testimony or self-authored letters to the Tenant, such as photographs or witness statements, supporting that the Tenant or occupant had disconnected wires or turned expired batteries the wrong way as alleged. As a result, I am not satisfied by the Landlord, on a balance of probabilities, that the Tenant or occupant have affected the functionality of the alarm itself in any material way since 2013 and I do not find one incident approximately five years prior to the One Month Notice sufficient to end the tenancy. Based on the above, I find that the Landlord has failed to satisfy me, on a balance of probabilities, that the Tenant or a person permitted on the property by the Tenant, has put the Landlord's property at significant risk.

The Landlord also alleged that the Tenant or a person permitted on the property by the Tenant has unreasonably disturbed another occupant or the Landlord and seriously jeopardized the health, safety or lawful right of another occupant or the Landlord. Overall the Landlord appears to be relying on a long history of incidents spread out over a period of approximately 5 years to support the One Month Notice. However, from the documentary evidence and testimony before me for consideration, the Landlord appears to have taken little or no significant action in relation to many of the historical incidents which she now wishes to rely on in support of the issuance and enforcement of the One Month Notice dated September 25, 2018. I do not find it reasonable for the Landlord, having failed to exercise due diligence in her duties as a Landlord in relation to these issues and incidents over a period of approximately 5 years, to now rely on these issues and incidents as support for her position that the Tenant or a person permitted on the property by the Tenant has unreasonably disturbed another occupant or the Landlord and seriously jeopardized the health, safety or lawful right of another occupant or the Landlord. As a result, I am not satisfied that these historical events constitute sufficient grounds for serving or enforcing the One Month Notice.

Despite the foregoing, the Landlord and the written witness statements pointed to several more recent incidents in 2018 which I will now discuss. The Landlord and a witness J.F. both submitted written submissions in relation to an incident in the parking garage on July 19, 2018, wherein the occupant was allegedly extremely aggressive and threatening towards them. The occupant denied being aggressive and testified that she was simply taking photographs of the Landlord as she believed that the Landlord was placing hidden cameras facing her vehicle. In reviewing these written submissions, I note that while J.F. states that he believed that the occupant was going to hit the Landlord, he does not explain *why* he held this belief as the only behavior described on the part of the occupant is shouting, being "close", and taking photographs against the

Landlord's wishes. While the Landlord describes the occupant as paranoid, and J.F states she had an expression of "rage and deep hate", neither submission describes any specific behavior, action, or utterance which I would characterize as overtly threatening or aggressive in nature. In fact, both statements appear to rely heavily on personal perceptions of how the occupant looked or sounded to them and the fact that the occupant is taller than the Landlord in support of the position that the occupant was therefore behaving aggressively. While I appreciate that shouting and taking unwanted photographs may indeed be inappropriate, I find the statements before me for consideration from the Landlord and J.F. do not satisfy me, on a balance of probabilities, that this incident was in fact aggressive or threatening in nature instead of simply inappropriate and aggravating to the Landlord. As a result, I therefore do not find that it constitutes sufficient grounds to serve or enforce the One Month Notice.

In addition to the above, the Landlord stated that she and the commercial occupants of the building, who are also her tenants, have been disturbed by the police on several recent occasions in relation to the Tenant or persons permitted on the property by the Tenant. Although I appreciate the Landlord's testimony that she feels harassed and disturbed by complaints made to the police by the Tenant and occupant, there is no evidence that these complaints relate to the Tenancy or any rights or obligations under the *Act*. Although the complainants are in fact the Tenant and the occupant, the relationship of the complainants to her does not, in and of itself, make these complaints a Branch matter. In any event, there is also no evidence, other than the testimony of the Landlord, that these recent complaints are in any way unfounded and therefore would constitute a ***significant*** interference with or ***unreasonable*** disturbance to her. Further to this, I find that the other recent incident described as occurring on July 9, 2018, does not demonstrate that the police attended the property due to the actions or the request of the Tenant, the occupant, or their guests, and I am therefore not satisfied that the Tenant had any hand in or control over the police attendance on this date. As a result, I do not find the attendance of the police on this occasion reasonable justification to serve and enforce the One Month Notice. Further to this, I am also not satisfied that this attendance constitutes anything more than a temporary inconvenience to the Landlord or the other occupants of the property.

Based on the above, I therefore find that the Landlord has failed to satisfy me, on a balance of probabilities, that the Tenant, or a person permitted on the property by the Tenant, has significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health, safety or lawful right of amother occupant or the Landlord, or put Landlord's property at significant risk. Based on this finding and the findings above, I therefore grant the Tenant's Application seeking

cancellation of the One Month Notice as I am not satisfied, on a balance of probabilities, that the Landlord had grounds to serve the One Month Notice.

As a result of the above, I order that the One Month Notice dated September 25, 2018, is cancelled and that the tenancy continue in full force and effect until it is ended in accordance with the *Act*. As the Tenant was successful in their Application, I also grant them recovery of the $100.00 filing fee pursuant to section 72 of the *Act*, which they are entitled to deduct from the next month's rent **or** to recover by way of the attached Monetary Order.

Although I have found above that I am not satisfied by the Landlord that they had reasonable grounds to serve the One Month Notice dated September 25, 2018, based on the evidence and testimony before me for consideration, the parties are cautioned that the Landlord remains at liberty to serve a future Notice to End Tenancy pursuant to section 47 of the *Act*, should they wish to do so, but only for matters arising or occurring **after** September 25, 2018 or for previous matters which did not form the basis for the issuance of the One Month Notice before me for consideration in this matter.

Conclusion

I order that the One Month Notice dated September 25, 2018, is cancelled and that the tenancy continue in full force and effect until it is ended in accordance with the *Act*.

Pursuant to section 67 of the *Act*, I grant the Tenant a Monetary Order in the amount of $100.00. The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. In lieu of serving and enforcing this Order, the Tenant remains at liberty to deduct $100.00 from the next month's rent, should they wish to do so.

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 11, 2018

Residential Tenancy Branch