



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, RPP, PSF, LRE, FF

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order cancelling the landlord's 1 Month Notice to End Tenancy for Cause (the "Notice") and for recovery of the filing fee paid for this application.

The tenant attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that she served the landlord with her application for dispute resolution and notice of hearing by registered mail on April 12, 2019. The tenant provided a copy of the receipt and the tracking number of the registered mail package and that it was mailed to the address listed on the landlord's Notice.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the landlord's Notice and to recovery of the filing fee paid for this application?

### Background and Evidence

The tenant submitted that this tenancy began on January 31, 2018, that monthly rent is \$938.00 and that she paid a security deposit of \$469.00 at the start of the tenancy.

The tenant submitted that the landlord served her with the Notice by attaching it to the her door. The tenant was unsure of the date she received the Notice; however, the copy of the Notice provided by the tenant shows it was dated on March 29, 2019, showing a move-out date of May 1, 2019.

The causes listed on the Notice, submitted into evidence by the tenant, alleged that the tenant had put the landlord's property at significant risk and that the tenant or a person she permitted on the property has caused extraordinary damage to the rental unit.

The tenant denied all causes listed on the Notice.

### Analysis

When a landlord issues a notice to end a tenancy and the tenant files an application to dispute the notice, the landlord must prove that there is sufficient reason under the Act to end the tenancy. In this case, the Notice was dated March 29, 2019, and was issued pursuant to section 47(1), for alleged cause. Although the tenant was unsure of the date she received the Notice, under section 90 of the Act, a document served by attachment to the door or other conspicuous place is deemed received three days later. In this case, absent proof to the contrary, the tenant is deemed to have received the Notice on April 1, 2019, and her application was filed April 9, 2019. I find that she disputed the Notice within the timeframe required under the Act.

In the absence of the landlord or any evidence from the landlord to support the grounds listed in the Notice, I find that it must be set aside.

I therefore order that the Notice dated March 29, 2019, is cancelled, with the effect that the tenancy continues until it may otherwise legally end under the Act.

As I have granted the tenant's application, I allow her recovery of her filing fee of \$100.00. I direct her to deduct \$100.00 from her next, or a future month's rent in

satisfaction of her monetary award. The tenant should advise the landlord when she is making this deduction.

Conclusion

The tenant's application seeking cancellation of the landlord's Notice and recovery of her filing fee is granted.

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: May 23, 2019

---

Residential Tenancy Branch