



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 127 SOCIETY FOR HOUSING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, MT, OLC

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on May 23, 2019, wherein the Tenant sought an order canceling a 1 Month Notice to End Tenancy for Cause issued on March 27, 2019 (the "Notice"), more time to make such an application and an Order that the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and/or the residential tenancy agreement.

The hearing of the Tenant's Application was scheduled for 11:00 a.m. on July 4, 2019. Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised. I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matter—Delivery of Decision

The parties confirmed their email addresses during the hearing as well as their understanding that this Decision would be emailed to them.

Preliminary Matter—Mutual Agreement to End Tenancy

At the outset of the hearing the Landlord confirmed that the parties reached a Mutual Agreement to End the Tenancy as of May 31, 2019. Subsequent discussions resulted in a further Mutual Agreement effective July 31, 2019. Documentary evidence submitted confirms the Tenant reached this latter agreement with the assistance of a support worker.

As the parties agreed to end this tenancy on July 31, 2019, some three months after the effective date of the Notice, I find the Landlord waived any rights pursuant to the Notice. To suggest the Tenant was obligated to file to dispute the Notice within the time required, is inconsistent with the parties' settlement discussions. I therefore find that the Landlord withdrew the Notice and it is of no force and effect.

The Application before me involved the Tenant's request for an Order canceling the Notice as well as more time to make such an application. As I have found the Notice was withdrawn pursuant to the Mutual Agreement to End Tenancy, I find the Tenant's Application is unnecessary.

Section 55 of the *Act* provides that I must grant a Landlord an Order of Possession in the event I *dismiss* the Tenant's request to cancel a notice to end tenancy *and* I find the notice complies with section 52 of the *Act*. In this case, I find the Landlord withdrew the Notice and it is therefore of no force and effect; I did not dismiss the Tenant's claim and consequently, section 55 does not apply. Section 55 is unique in that in all other cases the Landlord cannot make an application through the Tenant's Application as the Landlord must make their own application. In this case, the Notice was withdrawn and therefore invalid.

Materials submitted by the Tenant indicate he requested an Order, pursuant to section 62(3), that the Landlord assist in finding alternate accommodation. There is no authority under the *Act* to make such an order. As such, the Tenant's request for an Order that the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and/or the residential tenancy agreement is dismissed.

The Tenant is reminded that he may not unilaterally withdraw from a Mutual Agreement to End Tenancy and that pursuant to this agreement his tenancy ends July 31, 2019. Similarly, should the Tenant fail to move as agreed the Landlord may be entitled to recover any costs associated with enforcing the Mutual Agreement.

Conclusion

The Notice was withdrawn pursuant to a Mutual Agreement to End Tenancy whereby the tenancy would end July 31, 2019.

The Tenant's request that the Landlord assist in finding him further accommodation is dismissed as such relief is not available under the *Residential Tenancy Act*.

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: July 04, 2019

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Residential Tenancy Branch