



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding A & T MANAGEMENT CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL, OPC (Landlord)  
CNC, ERP, MNDCT, MT, OLC, PSF, RR (Tenant)

### Introduction

This hearing was convened by way of conference call in response to cross Applications for Dispute Resolution filed by the parties.

The Tenant filed the application May 28, 2019 (the “Tenant’s Application”). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated May 01, 2019 (the “Notice”);
- For more time to file the dispute;
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement;
- For an order that the Landlord provide services or facilities required by the tenancy agreement or law;
- For repairs to be made to the unit;
- To reduce rent for repairs, services or facilities agreed upon but not provided; and
- For compensation for monetary loss or other money owed.

The Landlords filed the application June 14, 2019 (the “Landlords’ Application”). The Landlords applied for an Order of Possession based on the Notice and for reimbursement for the filing fee.

The Tenant appeared at the hearing. The Landlord appeared at the hearing with the witness who was out of the room until required.

The Landlord provided the correct name of the company Landlord which is reflected in the style of cause.

Pursuant to rule 2.3 of the Rules of Procedure, I told the Tenant I would consider the dispute of the Notice and request for more time to file and dismiss the remaining claims with leave to re-apply. The remaining claims are not sufficiently related to the dispute of the Notice and request for more time to file which are the main issues before me. The remaining claims are dismissed with leave to re-apply. This does not extend any time limits in the *Residential Tenancy Act* (the “Act”).

I explained the hearing process to the parties who did not have questions when asked. The parties and witness provided affirmed testimony.

Both parties had submitted evidence prior to the hearing. I addressed service of the hearing packages and evidence and no issues were raised in this regard.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered the relevant documentary evidence pointed to during the hearing and all oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Should the Tenant be granted more time to file the dispute?
2. Should the Notice be cancelled?
3. If the Notice is not cancelled, should the Landlords be issued an Order of Possession based on the Notice?
4. Are the Landlords entitled to reimbursement for the filing fee?

#### Background and Evidence

The parties agreed on the following. There is a written tenancy agreement between the Tenant and the company Landlord. The tenancy started in June of 2015 and is a month-to-month tenancy. Rent is \$797.19 due on the first day of each month. The Tenant said he paid a \$350.00 security deposit. The Landlord said the Tenant paid a \$375.00 security deposit.

The Tenant testified that he was served with a different One Month Notice than the One Month Notice submitted by the Landlord. The Tenant had submitted a photo of the One Month Notice he received. This is the One Month Notice I am considering in this decision.

The Notice is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Landlord. I cannot see the year on the Notice but accept that it is 2019 given the effective date of the Notice which is June 01, 2019. The grounds for the Notice are that the Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk. The grounds also note illegal activity but this ground is not completed on the Notice received by the Tenant.

The Landlord testified that the Notice was posted to the door of the rental unit May 01, 2019.

The Tenant testified that he received both pages of the Notice in person at his rental unit on May 01, 2019 from the Landlord.

The Tenant's Application was filed May 28, 2019. The Tenant provided the following reasons for filing the dispute late.

He previously filed an Application for Dispute Resolution but it did not go through. The previous Application for Dispute Resolution was submitted but the filing fee was not paid as he was waiting for further documentation. He mailed this documentation to the RTB but it did not arrive in time and the file was closed. He provided File Number 1 for this. I have looked this up on the RTB system which shows the Application for Dispute Resolution was abandoned.

He had a verbal agreement with the Landlord that he would not be evicted based on the Notice. The Landlord said the owner of the rental unit told her to issue the Notice and she was just following directions. The Landlord said the Notice was not important and nothing big. He did not think the Landlord would enforce the Notice because he has previously received notices to end tenancy from the Landlord which were not enforced. The Tenant could not point to any evidence submitted to support his position in this regard.

The Landlord submitted a One Month Notice that is different than the Notice he received. He did not believe the Landlord could evict him without having grounds to do so.

The Landlord denied that she had a verbal agreement with the Tenant that he would not be evicted based on the Notice. The Landlord denied that she told the Tenant she was issuing the Notice because the owner told her to, that it was not important and nothing big.

### Analysis

The Notice was issued pursuant to section 47 of the *Act* which states in part the following:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

(d) the tenant or a person permitted on the residential property by the tenant has...

(iii) put the landlord's property at significant risk...

(2) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) A notice under this section must comply with section 52...

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

Section 66 of the *Act* allows an arbitrator to extend time lines in the *Act* and states:

66 (1) The director may extend a time limit established by this Act only in exceptional circumstances...

I do not find it relevant that the Tenant filed a previous Application for Dispute Resolution given it was considered abandoned due to the Tenant not submitting the necessary documentation in time.

I do not accept that the Tenant had a verbal agreement with the Landlord that he would not be evicted based on the Notice. I do not accept that the Landlord told the Tenant the Notice was not important and nothing big. The Landlord denied these things. The Tenant could not point to any evidence submitted in support of his position on this issue. It is the Tenant who has the onus to prove he is entitled to an extension of time to file the dispute. In the absence of evidence to support his position on this issue, the Tenant has not met his burden in this regard.

The Tenant not believing the Landlord would enforce the Notice is not a valid basis to extend the time limits in the *Act*. The Notice outlined what the Tenant was required to do to dispute the Notice and the consequences of not disputing the Notice in time.

I do not find the issue raised by the Tenant about different One Month Notices relevant. The Tenant acknowledged receiving the Notice as shown at page 10 of his materials. This is the Notice I have considered. The Tenant received both pages of this Notice May 01, 2019. The Notice states that the Tenant may be evicted if he does not respond to it. The Notice outlines the Tenant's obligations to dispute the Notice and consequences for failing to do so within the time limit. The Tenant should have filed an Application for Dispute Resolution in relation to the Notice he received May 01, 2019 if he wished to dispute it. Whether the Landlord subsequently submitted a different One Month Notice is irrelevant to this issue. Nor is there any unfairness to the Tenant as I am considering the Notice the Tenant received May 01, 2019.

The Tenant's belief that the Landlord could not evict him without having grounds to do so is not a valid basis for failing to dispute the Notice within the applicable time limit. The Tenant is expected to know his rights and obligations under the *Act*. Further, the Notice itself outlined the rights and obligations of the Tenant in relation to disputing the Notice and outlined the consequences for failing to dispute the Notice. Failing to know his rights and obligations is not a valid basis to extend time limits under the *Act*. If the Tenant believed the Landlord did not have grounds for the Notice, he should have disputed it within the time limit for doing so.

The Tenant has not shown that any exceptional circumstances existed that resulted in his late dispute of the Notice. Nor has he shown any valid basis for extending the time limit set out in section 47(4) of the *Act*. I decline to extend the time for disputing the Notice.

I find the Notice was served on the Tenant on May 01, 2019 in accordance with section 88(a) of the *Act* given the Tenant's testimony on this point. The Tenant had until May 13, 2019 to dispute the Notice pursuant to section 47(4) of the *Act*.

The Tenant did not dispute the Notice until May 28, 2019, outside the time limit for doing so. I decline to extend the time limit. Section 47(5) of the *Act* applies. The Tenant is conclusively presumed to have accepted that the tenancy ended June 30, 2019, the corrected effective date of the Notice. The Tenant was required to vacate the rental unit by June 30, 2019.

I have reviewed the Notice as shown on page 10 of the Tenant's materials and am satisfied it complies with section 52 of the *Act* in form and content.

Given the above, the Landlords are entitled to an Order of Possession pursuant to section 55 of the *Act*. I issue the Landlords this Order effective two days after service on the Tenant.

Given the Landlords were successful in this application, I award the Landlords reimbursement for the \$100.00 filing fee. Pursuant to section 72(2) of the *Act*, the Landlords can keep \$100.00 of the security deposit as reimbursement for the filing fee.

Conclusion

I decline to grant the Tenant more time to file the dispute. The Landlords are entitled to an Order of Possession based on the Notice and I issue the Landlords this Order effective two days after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

As the Landlords were successful in this application, I grant them \$100.00 as reimbursement for the filing fee. The Landlords can keep \$100.00 of the security deposit as reimbursement for the filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: July 11, 2019

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Residential Tenancy Branch