



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      Tenant: CNC, OLC  
Landlord: OPC, FFL

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “*Act*”).

The Tenant’s Application for Dispute Resolution was made on June 6, 2019 (the “Tenant’s Application”). The Tenant applied for the following relief, pursuant to the *Act*:

- to cancel a One Month Notice for Cause; and
- an order for the landlord to comply with the *Act*, tenancy agreement or regulation.

The Landlord’s Application for Dispute Resolution was made on June 12, 2019, (the “Landlord’s Application”). The Landlord applied for the following relief, pursuant to the *Act*:

- an order of possession for cause; and
- an order granting the recovery of the filing fee.

The Tenant and the Landlord’s Agent, C.R., attended the hearing at the scheduled date and time, and provided affirmed testimony.

The Tenant testified that he served his Application and documentary evidence package to the Landlord in person on June 7, 2019. C.R. confirmed receipt. C.R. testified that she served the Tenant with the Landlord’s Application and documentary evidence in person on June 13, 2019. The Tenant confirmed receipt. Pursuant to section 88 and 89

of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. For example, if a party has applied to cancel a notice to end tenancy, or is applying for an order of possession, an Arbitrator may decline to hear other claims that have been included in the application and the Arbitrator may dismiss such matters with or without leave to reapply.

I find that the most important issue to determine is whether or not the tenancy is ending due to a fundamental breach of the tenancy agreement or the *Act*.

The Tenant's request for an order for the landlord to comply with the *Act*, tenancy agreement or regulation is dismissed with leave to reapply.

### Issue(s) to be Decided

1. Is the Tenant entitled to an order cancelling the One Month Notice to End Tenancy for Cause (the "One Month Notice") dated May 31, 2019, pursuant to Section 47 of the *Act*?
2. If the Tenant is unsuccessful in cancelling the One Month Notice, is the Landlord entitled to an Order of Possession, pursuant to Section 47 and 55 of the *Act*?

### Background and Evidence

The parties testified and agreed to the following; the tenancy began on November 1, 2014. Currently, the Tenant pays rent in the amount of \$795.00, which is due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$367.50, as well as a pet damage deposit in the amount of \$250.00.

C.R. testified that she served the Tenant with a One Month Notice on May 31, 2019 with an effective vacancy date of June 30, 2019, by posting it on the door of the dispute address. The Tenant confirmed having received the One Month Notice on the same day. The Landlord's reason for ending the tenancy on the One Month Notice is;

*"Tenant or person permitted on the property by the tenant has seriously jeopardized the safety or lawful right of another occupant or the Landlord"*

C.R. stated that there has been an ongoing bedbug issue at the residential building that has impacted several units. C.R. stated that the Landlord has made numerous attempts to exterminate the bed bugs; however, they continue to be an issue at the building. C.R. stated that currently, it appears as though the Tenant's rental unit continues to show signs of containing bedbugs.

C.R. stated that the eviction notice relates to the fact that the Landlord needs vacant possession of the Tenant's rental unit in order to effectively treat the bedbug problem in the Tenant's rental unit. C.R. stated that it has been recommended that the Landlord remove the carpet, underlay, and baseboards. C.R. also stated that the exterminator will need to drill holes in the walls and spray a chemical treatment. C.R. stated that the treatments typically last between 6 to 8 hours and will need to be conducted regularly during a one month period. C.R. stated that the rental unit cannot be effectively treated while the Tenant continues to occupy the rent unit.

In response, the Tenant indicated that there is only one bedbug in his suite and that he has done everything that has been suggested to him to mitigate the likelihood of the bedbugs returning. The Tenant stated that he doesn't feel as though the Landlord has effectively followed up with inspecting the bedbug issue following previous treatments in the past, which may be contributing to why they continue to be an issue in his rental unit. The Tenant stated that he is willing to accommodate further treatments, including staying elsewhere while the treatment to exterminate the bedbugs is conducted. The Tenant doesn't feel as though vacant possession through ending the tenancy is necessary.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated on May 31, 2019 with an effective vacancy date of June 30, 2019, by positing it on the door of the dispute address. The Tenant confirmed having received the notice on the same date. I find the One Month Notice was sufficiently served pursuant to Section 88 of the Act.

In this case, I find that the Landlord has provided insufficient evidence to demonstrate that the bed bug issue at the building was caused by the Tenant. I find that there have been previous successful treatments conducted at the residential building in the past; however, the Tenant's rental unit continues to show signs of having bedbugs.

I accept that the Landlord is seeking to conduct further bedbug treatments on the Tenant's rental unit. I find that the Landlord has provided insufficient evidence to demonstrate that ending the tenancy is necessary in order to carry out the proposed treatments. I further find that the Tenant is willing to accommodate further treatments by temporarily vacating his rent unit while treatments are taking place

In light of the above, I cancel the One Month Notice, dated May 31, 2019. I order that the tenancy will continue until ended in accordance with the Act.

As the Landlord was not successful in their Application, I find that they are not entitled to the recovery of the filing fee.

### Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated May 31, 2019 is cancelled.

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 23, 2019

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Residential Tenancy Branch