



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47.

Both parties attended. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me. The landlord called the witness AB who provided affirmed evidence. The tenant called CH who provided affirmed evidence.

The landlord acknowledged service of the Notice of Hearing and Application for Dispute Resolution. No issues of service were raised. I find that the tenant served the landlord with the Notice of Hearing and Application for Dispute Resolution under section 89 of the *Act*.

I informed the parties that in the event I dismissed the tenant’s application to cancel the Two Month Notice issued in compliance with the *Act*, I was required under section 55 of the *Act* to grant an order of possession in favour of the landlord.

Issue(s) to be Decided

- Is the tenant entitled to a cancellation of the One Month Notice under Section 47 of the *Act*;
- If the tenant is not successful in cancelling the One Month Notice, is the landlord entitled to an Order of Possession under section 55 of the *Act*.

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions, written witness statements, and/or arguments are reproduced here. The principal aspect of the claims and my findings are set out below.

The parties agreed the tenancy began 7 years ago. Rent is \$540.00 payable on the first of the month. The tenant provided a security deposit of \$270.00 which the landlord holds. Neither party submitted a copy of the tenancy agreement.

The landlord testified that the tenant's unit is in a 126-unit apartment building.

The landlord testified that on May 11, 2019, he received a complaint from AB, occupant of a unit in the apartment building, that there was a party of tenants "and squatters" outside the building below her balcony; AB informed the landlord that the tenant attended the party and had exposed himself to her while under the influence of alcohol. The landlord was not present when the alleged incident occurred. AB provided oral testimony confirming the incident had taken place.

Accordingly, the landlord issued a One Month Notice. A copy of the One Month Notice was filed by the tenant. The Notice is not dated and does not check a box indicating why the Notice was filed. Both parties agreed the landlord served the Notice in August 2018.

The Notice stated in narrative form the reasons for the issuance as follows: "Exposed himself to senior female tenant, obtained a dog without permission from landlord, as posted on office window. Moved in some else without knowledge of landlord".

The tenant vehemently denied the allegations in the notice. He filed an application for dispute resolution on August 15, 2019. The tenant called as a witness CW who testified she was with the tenant on May 11, 2019 at a party in another apartment building. The

tenant denied he has a dog and stated he lives alone.

The landlord acknowledged he did not provide a letter of warning to the tenant.

### Analysis

For the following reasons, I find the Notice does not comply with section 52 as required.

#### *Notice Must Comply with Section 52*

The Notice must comply with section 52 which states (emphasis added):

#### ***Form and content of notice to end tenancy***

***52. In order to be effective, a notice to end a tenancy must be in writing and must***

- (a) **be signed and dated by the landlord** or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], **state the grounds for ending the tenancy**,*
  - (d.1 ) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement made in accordance with section 45.2 [confirmation of eligibility], and*
  - (e) when given by a landlord, be in the approved form.*

As the Notice is not dated as required by section 52(a), I find the Notice does not comply with section 52.,

Further, because the Notice is not dated, I am unable to determine if the tenant filed an Application within ten days as required.

#### *Grounds for Issuance of Notice*

As the Notice does not select the grounds listed on the form for the issuance of the notice as required by section 52(d), I find the Notice does not comply with section 52(d). I find the narrative quoted above is not adequate and does not comply with section 52(d). I therefore find the landlord has failed to provide grounds for ending the tenancy

as required by section 52(d).

For the above reasons, I order that the landlord's Notice to End Tenancy is of no force and effect. Accordingly, I grant the tenant's application to cancel the Notice. The tenancy shall continue until it is ended in accordance with the agreement or the Act.

### Conclusion

The tenant is granted an order setting aside the undated One Month Notice issued in August 2019.

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: October 08, 2019

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Residential Tenancy Branch