



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FFL

### Introduction

On October 2, 2019, the Landlord applied for a Dispute Resolution proceeding seeking an Order of Possession based on a One Month Notice to End Tenancy for Cause (the "Notice") pursuant to Section 47 of the *Residential Tenancy Act* (the "Act") and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord and Tenant C.C. both attended the hearing. All in attendance provided a solemn affirmation.

The Landlord advised that he served each Tenant a Notice of Hearing package by registered mail on October 2, 2019 and the Tenant confirmed that they received these packages. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were served the Notice of Hearing packages.

The Landlord advised that he did not serve his evidence to the Tenants. As this evidence was not served in compliance with Rule 3.14 of the Rules of Procedure, this evidence was excluded and not considered when rendering this decision. The Landlord was allowed to provide testimony with respect to this evidence, however.

The Tenant advised that she served their evidence to the Landlord personally on October 30, 2019 and the Landlord confirmed that he received this evidence. However, he stated that he did not have time to review or respond to this evidence. As service of this evidence does not comply with the time frame requirements for service under Rule 3.15 of the Rules of Procedure, I have excluded this evidence will not consider it when rendering this decision. The Tenant was allowed to provide testimony with respect to this evidence, however.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

### Background, Evidence, and Analysis

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on or around December 1, 2017. Rent was currently established at \$2,500.00 per month, due on the first of each month. A security deposit of \$1,200.00 and a pet damage deposit of \$500.00 were also paid. Any issues with respect to the deposits were dealt with in a previous Dispute Resolution proceeding, according to the parties.

The Landlord advised that the Tenants were served the Notice on September 17, 2019 by being posted on the Tenants' door. The Tenant advised that they received this Notice on or around that day. The reasons the Landlord served the Notice are because the "Tenant is repeatedly late paying rent", the "Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk", and the "Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property."

The Landlord confirmed that he had the Notice in front of him and he was asked to review the Notice. He confirmed details written on the Notice; however, when he was asked if he had signed the Notice, he stated that he "believes so." When I stated that it does not make sense that he would not know the answer to this question as he was following along on the Notice, he advised that he had a "lot of documents in front" of him. He eventually admitted that he did not sign the Notice.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by a Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

With respect to the Notice served to the Tenants on September 17, 2019, I have reviewed this Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. Both parties confirmed that the Landlord did not sign the Notice.

As the Notice has not been signed, I am not satisfied of the validity of the Notice as it does not comply with Section 52 of the *Act*. Therefore, I find that the Notice of September 17, 2019 is of no force and effect.

As the Landlord was not successful in his claims, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

Based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of September 17, 2019 to be cancelled and of no force or effect. This tenancy continues until ended in accordance with the *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: November 4, 2019

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Residential Tenancy Branch