



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction and Analysis

This hearing dealt with the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) to cancel a 1 Month Notice to End Tenancy for Cause (1 Month Notice).

The tenant did not submit a copy of the 1 Month Notice or the tenancy agreement in evidence. The hearing package provided to each applicant contains instructions on evidence and the deadlines to submit evidence, as does the Notice of Dispute Resolution Proceeding document dated September 19, 2019 (Notice of Hearing) provided to the tenant for service on the landlord.

The 1 Month Notice document is not a mere technicality. In fact, it is hard to imagine another document being more relevant or material to the tenant's claim, in particular when the tenant is asking to have the 1 Month Notice cancelled. The responsibility of proving a claim is on the person making the claim. As the tenant failed to provide a copy of the 1 Month Notice, I find the tenant has provided insufficient evidence to prove their claim. Therefore, I dismiss the tenant's application without leave to reapply.

While section 55 of the Act states that I must grant an order of possession once I have dismissed the tenant's application, I do not grant an order of possession for two reasons in this matter. Firstly, where the 1 Month Notice has not been submitted in evidence by either party, I will not grant an order of possession as the 1 Month Notice could potentially fail to comply with section 52 of the Act. Section 55 of the Act requires that before granting an order of possession, the notice to end tenancy must comply with section 52, which I am unable to determine without a copy of the 1 Month Notice. Secondly, the tenant confirmed that an order of possession was granted to a person that the tenant testified is not the landlord or an agent for the landlord in a previous decision dated November 22, 2019 (previous decision). The previous decision file

number has been included on the cover page of this decision for ease of reference. The tenant stated that she intends to file for a Review Consideration in relation to the previous decision as she believes the order of possession was obtained by fraud.

### Conclusion

The tenant's application is dismissed without leave to reapply for the reason stated above.

An order of possession is not granted to the landlord for the two reasons stated above.

This decision will be emailed to the tenant at the email confirmed by the tenant during the hearing. The decision will be sent by regular mail to the landlord as the tenant did not have an email address for the landlord.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 26, 2019

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Residential Tenancy Branch