



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, LRE, OT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the tenant served the landlord with the notice of hearing package in person. The tenant stated that the submitted documentary evidence was served to the landlord in person. The landlord disputes this claim stating that no such documentary evidence was served by the tenant. The landlord clarified that after uploading the landlord's documentary evidence, she "assumed" that by providing the tenant's email address that the RTB online system would serve the evidence to the tenant. Both parties were educated in how the current system worked in conjunction with the Rules of Procedure.

I accept the affirmed testimony of both parties and find that both parties have been sufficiently served as per section 89 of the Act. As for the documentary evidence of both parties, I find that both parties have failed to properly serve the submitted documentary evidence as per section 88 of the Act. The tenant was unable to provide any supporting evidence of service after the landlord had disputed that no such

documentary evidence was served. The landlord “assumed” that the Residential Tenancy Branch (RTB) online system would serve the tenant with the landlord’s documentary evidence automatically by providing an email to the RTB online system. On this basis, the documentary evidence of both parties are excluded from consideration in this hearing.

Preliminary Issue(s)

At the outset of the hearing the tenant’s application was clarified. The tenant seeks an order to suspend or set conditions on the landlord’s right to enter the rental unit with proper notice. The landlord stated that they had “assumed” that the tenant had complied with the noticed and had vacated it when they had attended to inspect the unit.

I find that an order is not required in this instance, but remind both parties that the Residential Tenancy Act section 29 states in part,

A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

*The tenant gives permission at the time of the entry or not more than 30 days before the entry.*

*At least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:*

*The purpose for entering;*

*The date and the time of the entry, which must be between 8am and 9pm unless the tenant otherwise agrees;*

The landlord was cautioned that if this would reoccur, the tenant would be free to file for dispute and seek compensation for the loss of quiet enjoyment.

It was also clarified with both parties that the landlord had issued a second notice to end tenancy issued for cause dated February 9, 2020. The landlord confirmed in her direct testimony that there was some concern over this notice being valid and as such chose

to cancel the notice dated December 31, 2019 by issuing a new one. Both parties confirmed that as of this hearing, neither party has sought to comply with the notice, dispute the notice to end tenancy or seek an order of possession based upon that notice.

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: March 06, 2020

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Residential Tenancy Branch