



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC

### Introduction

On January 5, 2020, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking an Order for the Landlord to Comply pursuant to Section 62 of the *Act*.

The Tenant attended the hearing with J.A. attending as his advocate. However, the Landlord did not make an appearance during the 10-minute conference call. All parties in attendance provided a solemn affirmation.

The Tenant advised that he served the Landlord with the Notice of Hearing package by registered mail on January 10, 2020 (the registered mail tracking number is on the first page of this decision). The tracking history indicated that this package was signed for and received by the Landlord January 13, 2020. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord received the Notice of Hearing package.

During the hearing, I advised the Tenant that as per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other and that I have the discretion to sever and dismiss unrelated claims. As such, I advised the Tenant that this hearing would primarily address the Landlord’s One Month Notice to End Tenancy for Cause, that his other claims would be dismissed, and that he is at liberty to apply for these claims under a new and separate Application. J.A. made some submissions about her belief that the Landlord’s actions amount to harassment and a breach of the Tenant’s right to quiet enjoyment pursuant to Section 28 of the *Act*. As this issue was severed, I have not made any findings on this issue. However, the Landlord is cautioned

that they must provide the Tenant with the covenant of quiet enjoyment, and it would be up to the Tenant to prove that this right has been breached.

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.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

#### Background and Evidence

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.

J.A. advised that the tenancy started on April 1, 2010 and rent is currently established at \$850.00 per month, due on the first day of each month. The Tenant paid a security deposit of \$325.00.

She advised that the Landlord served the Notice by hand on December 27, 2019. The Notice indicated that the effective end date of the Notice was January 31, 2020.

### 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.

The onus is on the party issuing the Notice to substantiate the reasons for service of the Notice. As the Landlord has not appeared at the hearing, I am not satisfied that the Landlord has properly substantiated the grounds for ending the tenancy. As such, I am not satisfied of the validity of the Notice, and I find that the Notice of December 27, 2019 is of no force and effect.

### Conclusion

Based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of December 27, 2019 to be cancelled and of no force or effect.

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 9, 2020

---

Residential Tenancy Branch