



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW HEARING DECISION**

Dispute Codes      CNC

### Introduction

This hearing was scheduled pursuant to the *Residential Tenancy Act* (the Act) in response to a successful application filed by the landlord for review of a decision dated April 27, 2020. In the original decision, the tenant's application to cancel the landlord's One Month Notice to End Tenancy was successful. The landlord subsequently filed for a review and in a Review Consideration Decision dated May 6, 2020 the review was granted on the ground that the landlord was unable to attend the original hearing and the original decision was subsequently suspended pending the outcome of this review hearing. The original decision made no finding on jurisdiction as this issue was not raised.

All named parties attended this review hearing. At the outset of this hearing, the parties advised that this tenancy ended on April 1, 2020, after the landlord took steps to have the tenant removed from the rental unit.

The landlord states he acted on advice of the Residential Tenancy Branch that the Act does not apply to vacation rentals. The landlord submits that this property is a vacation rental. The tenant stated she was still seeking an order for the One Month Notice to be set aside and an order of possession to have the tenancy reinstated. The tenant is also seeking a finding on jurisdiction.

As the tenant had not amended her application to include a request for an order of possession, I am unable to proceed with the tenant's request for this remedy. As I cannot reinstate this tenancy by granting the tenant an order of possession, I find it did not make sense for me to make a finding on jurisdiction and the validity of the One Month Notice when the tenancy has for all intents and purposes been ended for over two months.

If the tenant feels the Act applies to this accommodation and that she was wrongfully evicted and she still wishes to have this tenancy reinstated, I find it would be more

appropriate for the tenant to file a new application requesting an order of possession. If the tenant makes such an application, the issue of jurisdiction can be determined at that time.

As this tenancy has ended, I make no finding on the merits of the One Month Notice or on the issue of jurisdiction.

This application is dismissed with leave to reapply.

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: June 09, 2020

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Residential Tenancy Branch