



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cascadia Apt Rentals Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing was scheduled to deal with the tenant's application to cancel a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") and several other remedies. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

At the outset of the hearing, I confirmed the parties had exchanged their respective hearing materials upon each other and I admitted them into evidence for consideration in making this decision.

The hearing process was explained to the parties and the parties were given the opportunity to ask questions about the process.

In filing this Application for Dispute Resolution, the tenant had identified two tenants which was inconsistent with the tenancy agreement and the 1 Month Notice. I explored this issue with the parties and I determined there is only one tenant and the other applicant is actually an occupant of the rental unit but that she does not have standing as a tenant. Accordingly, I amended the style of cause to exclude the occupant as a party to this dispute, without any objection.

The tenant confirmed that he continues to occupy the rental unit and seeks to continue the tenancy. As such, I determined it necessary and appropriate to proceed to resolve the dispute concerning the 1 Month Notice. I severed the other remedies sought by the tenant as they are not sufficiently related to the primary issue to resolve, pursuant to Rule 2.3 and Rule 6.2 of the Rules of Procedure, and I dismissed those matters with leave to reapply. Rules 2.3 and 6.2 of the Rules of Procedure provide:

### **2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

### **6.2 What will be considered at a dispute resolution hearing**

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application. The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [Related issues]. For example, if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.

It is also important to note that from the outset of the hearing I had to repeatedly instruct and caution the tenant to stop interrupting and being otherwise disruptive during the proceeding. The tenant also failed to listen to the questions asked of him in their entirety before responding which resulted in the question having to be asked multiple times and exceptionally long hearing considering the limited matters addressed. The tenant acknowledged his behaviour but he, for the most part, did not change it; rather, he tried to justify it by pointing to his cultural heritage. It is likely the parties will be in a future dispute resolution proceeding and the tenant is put on notice that disruptive behaviour is unacceptable and may carry consequences as provided in rule 6.10 of the Rules of Procedure. Below, I have reproduced Rule 6.10 for the parties' further reference:

### **6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing**

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

### **Issue(s) to be Decided**

Should the 1 Month Notice be upheld or cancelled?

### Background and Evidence

The parties could not agree as to whether the tenancy started on June 1, 2012 or June 1, 2013 but the parties agreed it was several years ago. The parties were in agreement the tenancy is on a month to month basis currently. The tenant currently pays rent and parking fees totalling \$1880.00 on the first day of every month by way of pre-authorized debit.

On July 30, 2020 the landlord posted the subject 1 Month Notice to End Tenancy for Cause on the tenant's door. The tenant filed to dispute the 1 Month Notice within the time limit for doing so.

The 1 Month Notice served on July 30, 2020 is an old two page version of a 1 Month Notice and is devoid of any "Details of Cause". I also confirmed that the 1 Month Notice posted to the door was not accompanied by a separate page or document that provided the details of cause.

The tenant stated during the hearing he was not entirely certain as basis for eviction.

During the hearing, I informed the parties that the form served upon the tenant on July 30, 2020 is not valid or enforceable as it was not in the approved form and it was not otherwise accompanied by details of cause. As such, I declined to hear from the landlord as to the reason(s) for issuance of the 1 Month Notice and I make no findings as to whether the landlord has a basis for ending the tenancy for cause. Rather, I expressly stated that the landlord is at liberty to serve the tenant with a new 1 Month Notice, in the approved form, and the landlord may include the same reasons that lead to issuance of the 1 Month Notice issued on July 30, 2020.

### Analysis

Section 52 of the Act provides for the form and content of notices to end tenancy. Among other things, in order for a notice to end tenancy to be effective, it must be in the approved form when given by a landlord.

The Director has the authority to approve forms pursuant to section 10 of the Act, which provides:

### **Director may approve forms**

**10** (1) The director may approve forms for the purposes of this Act.

(2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

The 1 Month Notice to End Tenancy for Cause that was approved when the subject notice was given to the tenant provides a section entitled Details of Cause. In this section, the form stated:

Details of Causes(s): Describe what, where and who caused the issue and include dates/times, names etc. This information is required. An arbitrator may cancel the notice if details are not provided.

In keeping with the principles of natural justice, a person receiving an eviction notice is entitled to know the reason(s) for its issuance so that they may adequately respond or prepare a defence. The notice to end tenancy that is the subject of this proceeding was not in the approved form and since there were no details of cause otherwise provided by the landlord at the time of serving the notice, I find section 10(2) of the Act cannot apply as to do so would be prejudicial to the tenant.

In light of the above, I find the 1 Month Notice of July 30, 2020 to be invalid and unenforceable and I grant the tenant's request that I cancel it.

Since the tenant's application had merit, I award the tenant recovery of the \$100.00 filing fee. I provide the tenant with a Monetary Order in the amount of \$100.00 to ensure recovery. The tenant is authorized to deduct \$100.00 from a subsequent month's rent payment to recover this award; however, having heard the landlord takes the rent payment by way of pre-authorized debit, I order the landlord to adjust its system accordingly to reduce a subsequent month's rent payment by \$100.00, or provide the tenant with \$100.00 cheque.

### **Conclusion**

The 1 Month Notice dated July 30, 2020 is unenforceable based on the form used and it is cancelled with the effect that the tenancy continues at this time.

I did not hear and I have made no finding as to whether the landlord has a basis under the Act for ending the tenancy for cause. The landlord remains at liberty to issue another Notice to End Tenancy for cause should the landlord decide to pursue eviction.

The tenant is awarded recovery of the \$100.00 filing fee and is provided a Monetary Order.

The other remedies sought by the tenant in this application were severed and 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: September 26, 2020

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Residential Tenancy Branch