



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, MNDCT, ERP, OLC, OT, FFT

### Introduction

On August 26, 2020, the Tenant filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") to cancel a One-Month to End Tenancy for Cause (the "Notice") served on August 18, 2020, for a monetary order for compensation for my monetary loss or other money owed, for an order for the Landlord to comply with the Act, regulation or tenancy agreement, for other issues, and to recover the filing fee for this application. The matter was set for a conference call.

The Landlord's Agent (the "Landlord") and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure requires the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary Matters- Related Issues

I have reviewed the Tenant's application, and I note that they have applied to cancel a notice to end tenancy as well as for several other issues. I find that some of these other

issues are not related to the Tenant's request to cancel the Notice. As these matters do not relate directly to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

### **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.

Therefore, I am dismissing with leave to reapply, the tenant's claims for a monetary order for compensation for my monetary loss or other money owed, for an order for the Landlord to comply with the Act, regulation or tenancy agreement, for other issues.

I will proceed with this hearing on the Tenant's claim to cancel the One-Month Notice to end tenancy, and to recover the filing fee paid for their application.

### Issues to be Decided

- Should the Notice issued on August 18, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Tenant entitled to the recovery of the filing fee of their application?

### Background and Evidence

The Landlord testified that they served the Notice to end tenancy to the Tenant on August 18, 2020, by personal service. The Tenant submitted a copy of the Notice into documentary evidence.

The reason checked off within the Notice is as follows:

- *Tenant or a person permitted on the property by the tenant has:*
  - *Significantly interfered with or unreasonably disturbed another occupant or the landlord*
  - *Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*
  - *Put the landlord's property at significant risk.*
- *Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:*

- *Damage the landlord's property*
- *Adversely affected the quiet enjoyment, security, safety, or physical well-being of another occupant or the landlord*
- *jeopardized the lawful right or interest of another occupant or the landlord.*

The Landlord testified that they received complaints from two other occupants of the building about the Tenant harassing them on March 16, 2020, and April 5, 2020.

The Landlord also testified that the Tenant had damaged the rental unit by doing renovations to the rental unit without the Landlord's permission.

The Tenant testified that they had not harassed anyone in the building or on the property and that they had not damaged the rental unit.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the Notice to End Tenancy on August 18, 2020. Pursuant to section 47 of the Act, the Tenant had ten days to dispute the Notice. Accordingly, I find the Tenant had until August 28, 2020, to file their application to dispute the Notice. I have reviewed the Tenant's application and noted that Tenant filed their application on August 26, 2020, within the statutory time limit.

I have reviewed the testimony in this case, and I find that the parties have offered conflicting verbal testimony regarding the Tenant harassing other occupants and damaging the rental unit. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim; in this case, that would be the Landlord.

I note that the Landlord failed to submit any documentary evidence to these proceedings. Consequently, I find that the Landlord has not proven sufficient cause to satisfy me, to terminate the tenancy for any of the reasons indicated on the Notice they issued. Therefore, I grant the Tenant's application to cancel the Notice issued August 18, 2020, and I find the Notice has no force or effect. This tenancy will continue until legally ended in accordance with the Act.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in their application to dispute the Notice, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application. The Tenant is allowed to take a one-time deduction of \$100.00 from their next month's rent in satisfaction of this award.

### Conclusion

The Tenant's application to cancel the Notice issued August 18, 2020, is granted. The tenancy will continue until legally ended in accordance with the Act.

I grant the Tenant permission to take a one-time deduction of \$100.00, from their next month's rent.

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: October 8, 2020

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Residential Tenancy Branch