



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, LRE, OLC, FFT  
                             OPC, MNDCL-S, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice);
- An order for the Landlord to comply with the Act, regulation or tenancy agreement;
- An order restricting or setting conditions on the Landlord's right to enter the rental unit; and
- Recovery of the filing fee.

I note that section 55 of the Act requires that when a tenant submits an Application 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 is compliant with section 52 of the Act.

This hearing also dealt with a Cross-Application for Dispute Resolution that was filed by the Landlord under the Act, seeking:

- An Order of Possession based on the One Month Notice;
- Compensation for Monetary loss or other money owed;
- Authorization to withhold the security deposit; and
- Recovery of the filing fee.

The hearing was originally convened by telephone conference call before a different arbitrator on September 21, 2020, and an Interim Decision was rendered by that arbitrator on September 22, 2020, adjourning the matter and ordering that it be

reconvened before them at a future date and time. A copy of the Interim Decision and the Notice of Hearing for the reconvened hearing were sent to the parties by the Branch in the manner requested by them on September 28, 2020. Due to an administrative error, the reconvened hearing was set before me, on November 23, 2020, at 11:00 A.M., instead of the original arbitrator. Only the Tenant attended the reconvened hearing.

At the outset of the hearing the Tenant stated that the matters in their Application have been resolved by way of a settlement agreement as the result of a hearing which took place before a third arbitrator on November 10, 2020, in relation to different Applications than those before me in this hearing. The Tenant provided me with the applicable file numbers, which I have documented on the cover page of this decision, which allowed me to review the settlement agreement referred to by the Tenant. In this settlement agreement the parties agreed that the tenancy would end on December 1, 2020, and that a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities would be withdrawn. As a result of this settlement agreement the Tenant stated that they did not expect the Landlord to attend this hearing as the substantive matter, the end of the tenancy, had been resolved.

Based on the Tenant's affirmed and undisputed testimony and the settlement agreement rendered on November 10, 2020, I am satisfied that the matters claimed by the Tenant in the Application before me have already been resolved. As a result, I find no need to reconvene this matter before the original arbitrator at a future date and time and I dismiss the Tenant's Application in its entirety without leave to reapply.

In the Interim Decision related to the files before me for review at this hearing, the arbitrator stated that failure to attend the reconvened hearing at the scheduled time will result in a decision being made on the basis of any information before them and the evidence of the party in attendance at the hearing. Branch records indicate that notice of the reconvened hearing was sent to the Landlord by the Branch on September 28, 2020, in the manner requested by them, and that the Landlord contacted the Branch by phone on November 18, 2020, stating that a settlement was reached. Based on the above, and as the Landlord did not attend the reconvened hearing as scheduled, I find no need to reconvene this matter before the original arbitrator at a future date and time and I therefore dismiss the Landlord's Application in its entirety without leave to reapply, pursuant to rule 7.3 of the Rules of Procedure.

Conclusion

As set out above, I dismiss both Applications without 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 Act.

Dated: November 23, 2020

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Residential Tenancy Branch