



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNC, PSF, RP, MNDCT, LRE, OLC**

### Introduction

This hearing was scheduled for 9:30 a.m. on this date, via teleconference call, to deal with a tenant's application to cancel a One Month Notice to End Tenancy for Cause ("One Month Notice") and several other remedies.

The tenant appeared at the hearing; however, there was no appearance on part of the landlord despite leaving the teleconference call open for at least 10 minutes to give the landlord an opportunity to appear.

Since the landlord did not appear, I explored service of the hearing materials upon the landlord. The tenant testified that he does not have a service address for the landlord. The tenant stated that he was not given a written tenancy agreement and the One Month Notice he was served does not include a service address for the landlord except the word "same". The tenant testified that the rental unit is a room in a rooming house and the landlord does not reside at the residential property. The tenant explained that the landlord frequently comes to the residential property and that is the only way he has had communication with the landlord. The tenant testified that the landlord came to the residential property after he received the hearing package from the Residential Tenancy Branch and when the landlord knocked on his door one day to tell him she was going to evict him by force if he did not leave he gave her the paperwork. The tenant's testimony as to when the service occurred varied from "a couple of months ago" to likely in November to November 21, 2020.

In the circumstances described above, I accepted the landlord was served with the proceeding package and if this was not accomplished within three days of receiving the hearing package Residential Tenancy Branch, I attribute that to the landlord's failure to provide the tenant with a service address. Therefore, I deemed the landlord sufficiently served.

I proceeded to consider the tenant's request for cancellation of the One Month Notice and I dismissed the tenant's other remedies with leave to reapply for the following reasons.

The tenant confirmed that he continues to occupy the rental unit and he seeks to continue the tenancy. As such, I determined it necessary and appropriate to proceed to resolve the dispute concerning the One Month Notice. However, the other remedies sought by the tenant pertain to lack of repairs and maintenance, lack of services or facilities and a monetary claim pertaining to these deficiencies which are not related to the One Month Notice. I severed the tenant's monetary claim and other remedies with leave to reapply pursuant to Rule 2.3 and Rule 6.2 of the Rules of Procedure which 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.

### Issue(s) to be Decided

Should the One Month Notice be upheld or cancelled?

### Background and Evidence

The tenant submitted that he received a One Month Notice to End Tenancy for Cause from the landlord, in person, on November 4, 2020. The tenant filed to dispute the One Month Notice on November 11, 2020 which is within the time limit for doing so.

The One Month Notice received by the tenant is dated November 1, 2020 and has a stated effective date of November 30, 2020. As stated previously, the landlord's service

address is not provided except the word “same”. The landlord did not complete the “Details of Cause” section of the notice which is an old two-page version of a One Month Notice that was approved for use by the Director back in 2016.

### Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove that a valid notice to end tenancy was served upon the tenant and the tenancy should end for the reason(s) indicated on the notice.

Section 52 of the Act provides for the form and content that must be on a notice to end tenancy. Below, I have reproduced section 52:

#### **Form and content of notice to end tenancy**

- 52 In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
  - (b) give the address of the rental unit,
  - (c) state the effective date of the notice,
  - (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
  - (e) when given by a landlord, be in the approved form.

[my emphasis underlined]

In this case, the landlord did not duly complete the One Moth Notice served upon the tenant by failing to provide a service address and the “Details of Cause” section that provides for greater details concerning the grounds for ending the tenancy. Nor, did the landlord use a One Month Notice that was an approved form at the time of issuance. Therefore, I find the One Month Notice served upon the tenant is not effective and I cancel it with the effect that the tenancy continues at this time.

### Conclusion

The One Month Notice is ineffective and is cancelled. The tenancy continues at this time.

The other remedies sought by the tenant in this Application for Dispute Resolution were severed from this Application for Dispute Resolution 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: February 04, 2021

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Residential Tenancy Branch