



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Tenant on February 5, 2021, under the Residential Tenancy Act (the “Act”) to cancel One Month Notice to End Tenancy for Cause (the “Notice”) issued on January 29, 2021. The matter was set for a conference call.

The Tenant attended the hearing. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified the Application for Dispute Resolution and Notice of Hearing had been served to the Landlord by Canada Post Registered mail, sent on February 13, 2021, a Canada Post tracking number was provided as evidence of service. I find that the Landlord had been duly served in accordance with sections 89 and 90 of the Act.

The Tenant was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

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.

### Issues to be Decided

- Should the Notice issued January 29, 2021, be cancelled?
- If not, is the Landlord entitled to an order of possession?

### Background and Evidence

The tenancy agreement shows that the tenancy began on November 20, 2020, a six-month 12-day fixed term tenancy that will roll into a month-to-month tenancy at the end of this initial fixed term. Rent in the amount of \$725.00 is to be paid by the first day of each month, and that the Tenant paid a \$362.50 security deposit and a \$200.00 pet damage deposit to the Landlord at the outset of this tenancy. The Tenant provided a copy of the tenancy agreement into documentary evidence.

The Notice records that the Tenant was served with the Notice to End tenancy on January 29, 2021, indicating that the Tenant is required to vacate the rental unit on February 28, 2021. There was no reason checked off by the Landlord within the Notice.

The Tenant is requesting to cancel the Notice as the Notice was not issued in accordance with the *Act*. The Tenant provided a copy of the Notice to End tenancy into documentary evidence.

### Analysis

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

In a case where a tenant has applied to cancel a Notice, Rule 11.1 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.

This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes, and the only participant who called into the hearing during this time was the Tenant.

Since the Landlord did not attend the hearing by 9:41 a.m. to present any evidence or submission in support of the Notice, and the burden is on the landlord to prove the Notice was issued for the reasons stated. I find that the Landlord has failed to show cause to end the tenancy.

Therefore, I grant the Tenant's application to cancel the Notice issued on January 29, 2021, and I find that the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the *Act*.

Conclusion

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

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: May 7, 2021

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Residential Tenancy Branch