



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNC

### Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a One Month Notice to End Tenancy for Cause.

The Tenant stated that the Dispute Resolution Package was sent to the Landlord, via registered mail, although he cannot recall the date of service. The Landlord stated that he received these documents in an envelope that was postmarked April 06, 2021. On the basis of the undisputed evidence, I find that the Dispute Resolution Package was served to the Tenant in accordance with section 89 of *the Residential Tenancy Act (Act)*.

On April 10, 2021 the Landlord submitted 1 page of evidence to the Residential Tenancy Branch. The Landlord stated that this document was posted on the Tenant's door on April 10, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On April 16, 2021 the Landlord submitted another single page of evidence to the Residential Tenancy Branch. The Landlord stated that this document was posted on the Tenant's door on April 16, 2021. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On May 10, 2021 the Landlord submitted another single page of evidence to the Residential Tenancy Branch. The Landlord stated that this document was posted on the Tenant's door on May 10, 2021. The Tenant stated that he received this evidence and that he has had sufficient time to consider the evidence. As the Tenant has had

sufficient time to consider the evidence, it was accepted as evidence for these proceedings.

On May 11, 2021 the Tenant submitted one page of evidence to the Residential Tenancy Branch. The Tenant stated that this document was placed in the Landlord's mailbox on May 11, 2021. The Landlord stated he received this evidence and that he has had sufficient time to consider the evidence. As the Landlord has had sufficient time to consider the evidence, it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

#### Issue(s) to be Decided

Should a notice to end tenancy be set aside?

#### Background and Evidence

The Landlord and the Tenant agree that on March 20, 2021 the Landlord served the Tenant with a one page document by posting it on his door. The parties agree that this document is titled "One Month Notice to End Tenancy for Cause".

At the hearing both parties stated that they had not submitted a copy of the document titled "One Month Notice to End Tenancy for Cause". Upon reviewing the evidence submitted by the Landlord, I located the document titled "One Month Notice to End Tenancy for Cause".

At the hearing the Landlord stated that the document titled "One Month Notice to End Tenancy for Cause" was a document he created and was not a One Month Notice to End Tenancy for Cause created by the Residential Tenancy Branch.

At the hearing the Landlord and the Tenant agreed that the document titled "One Month Notice to End Tenancy for Cause" declared that the Tenant must vacate the unit by

April 30, 2021 due to noise, but it did not inform the Tenant of his right to dispute the notice to end tenancy.

### Analysis

Section 47(1) of the *Act* permits a landlord to end a tenancy for various reasons by providing the tenant with notice to end the tenancy.

Section 47(3) of the *Act* stipulates that a notice to end tenancy pursuant to section 47 of the *Act* must comply with section 52 of the *Act*. Section 52(e) of the *Act* stipulates that to be effective a notice to end tenancy, when given by a landlord, must be in the approved form.

The approved form for serving notice to end tenancy pursuant to section 47 of the *Act* is a RTB-33, One Month Notice to End Tenancy for Cause. I find that the document titled One Month Notice to End Tenancy for Cause which was served to the Tenant is not a RTB-33, even though it has the same title. As the document served to the Tenant for the purposes of ending the tenancy is not the approved form for ending the tenancy pursuant to section 47 of the *Act*, I find that it has no force or effect as it does not comply with section 52(e) of the *Act*.

Section 10(2) of the *Act* stipulates that deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

I find that the document titled One Month Notice to End Tenancy for Cause which was served to the Tenant differs substantially from a RTB-33, One Month Notice to End Tenancy for Cause, as it is missing very important information and, as such, section 10(2) of the *Act* does not apply in these circumstances. Examples of some of the highly relevant information missing from the document served to the Tenant are:

- It does not declare that the tenancy is ending pursuant to section 47 of the *Act*;
- It does not declare that the Tenant has ten days to dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch;
- It does not provide a service address for the Landlord, in the event the Tenant wished to dispute the Notice;
- It does not declare that the Tenant is conclusively presumed to have accepted the tenancy ends on the declared effective date of the notice if it is not disputed within ten days; and
- It does not declare that an Arbitrator may extend the deadline for filing an application to dispute the notice to end tenancy if there is proof of a serious and compelling reason for not filing the application on time.

As the document served to the Tenant for the purposes of ending this tenancy has no force or effect, I grant the Tenant's application to cancel the notice to end tenancy.

The Landlord retains the right to serve the Tenant with a proper RTB-33 if he wishes to end this tenancy pursuant to section 47 of the *Act*.

### Conclusion

The application to set aside the notice the Landlord served to end this tenancy is granted. This tenancy shall continue until it is 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 14, 2021

---

Residential Tenancy Branch