



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated April 19, 2021 ("1 Month Notice"), pursuant to section 47.

"Tenant IK" did not attend this hearing, which lasted approximately 34 minutes. The landlord, tenant SD ("tenant"), and the tenant's articulated student agent ("tenant's agent") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

This hearing began at 9:30 a.m. The tenant exited the hearing from 9:58 to 9:59 a.m., stating that his call dropped. The hearing ended at 10:04 a.m. This hearing lasted approximately 34 minutes.

Both parties intended to call one witness each, at this hearing. Both witnesses were excluded from the outset of the hearing and did not return to testify.

The tenant confirmed that his agent had permission to speak on his behalf at this hearing.

Rule 6.11 of the Residential Tenancy Branch *Rules of Procedure* does not permit recording of this hearing by anyone.

At the outset of this hearing, I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Neither party made any adjournment or accommodation requests.

At the outset of this hearing, both parties confirmed that they had two no-contact Court Orders, which restricts any direct or indirect contact between the landlord and tenant. The tenant's agent confirmed that the tenant provided a copy of an application filed by the tenant's lawyer on July 29, 2021, to vary the no-contact order to allow contact of both parties through counsel, in order to deal with their tenancy issue. The tenant's agent stated that he was informed that the variance was approved. The landlord stated that he did not know about this variance, but he was agreeable to communicate with the tenant's agent only. Both parties only communicated with the tenant's agent and me during this hearing and they did not have any direct communication with each other.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application.

The tenant stated that he did not receive a copy of the landlord's evidence. The landlord stated that he sent it by registered mail to the tenants. The tenant's agent confirmed that the tenant had a copy of the evidence from prior to this hearing, including the two no-contact orders, the 1 Month Notice, the notice of hearing for this application, and text messages between the parties. The tenant's agent confirmed that the tenant was ready to proceed with this hearing and he had no objection to the landlords' evidence.

The tenant stated that tenant IK already vacated this rental unit.

During this hearing, the tenant's agent confirmed that the tenant received an application from the landlord, for a hearing scheduled in November 2021, related to unpaid rent. The landlord confirmed that he withdrew this application for an order of possession for unpaid rent and a monetary order for unpaid rent against the tenants. He stated that no hearing was scheduled for that application and he would reapply for those orders in the future. The file number for that hearing appears on the front page of this decision.

#### Preliminary Issue – 1 Month Notice

The tenant was in receipt of the landlord's 1 Month Notice, with an effective move-out date of May 31, 2021. The tenants' application indicates that the notice was received on April 23, 2021. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were duly served with the landlord's 1 Month Notice.

The tenants filed this application to dispute the landlord's 1 Month Notice on April 26, 2021, which is within the 10-day timeline under section 47(4) of the *Act*.

The landlord agreed that he issued the 1 Month Notice using an old RTB form, dated July 2007.

Sections 47 and 52 of the *Act*, state in part (my emphasis added):

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...*

...

**(3) A notice under this section must comply with 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**

**(e) when given by a landlord, be in the approved form.**

At the hearing, I informed both parties that the landlord did not issue a 1 Month Notice to the tenants in the approved RTB form, as required by sections 47 and 52 of the *Act*. The landlord used a 14-year old form, dated July 2007, that is no longer available or approved by the RTB. The current approved RTB form is dated March 24, 2021 and requires the details of cause to be described on page 2 of the notice, as follows (my emphasis added):

*Details of Causes(s): Describe what, where and who caused the issue and include dates/times, names etc. **This information is required. An arbitrator may cancel the notice if details are not provided.***

The landlord did not include the above required details in his 1 Month Notice, as the 2007 form does not include or require this information.

Accordingly, the tenants' application to cancel the 1 Month Notice, is granted. I find that this tenancy continues under the terms of the original tenancy agreement until it is ended in accordance with the *Act*. I informed both parties of my decision verbally during this hearing and they confirmed their understanding of same.

Conclusion

The tenants' application is granted. The landlord's 1 Month Notice, dated April 19, 2021, is cancelled and of no force or effect.

This tenancy continues under the terms of the original tenancy agreement 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: August 30, 2021

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Residential Tenancy Branch