



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding North Park Manor Society and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC

### **Introduction**

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

As the parties were in attendance, I confirmed that there were no issues with service of the tenant's application for dispute resolution ('application'). In accordance with section 89 of the *Act*, I find that the landlord duly served with the tenant's application. As the tenant confirmed receipt of the landlord's evidentiary materials, I find the tenant duly served with the landlord's evidence in accordance with section 88 of the *Act*. Counsel for the tenant provided written submission for this hearing, which were not served on the landlord. As the service requirements were not met for these written submissions, they will be excluded for the purposes of this hearing.

### **Preliminary Issue: Did The Landlord Serve the Tenant with the Proper Notice?**

The tenant confirmed receipt of the 1 Month Notice dated June 25, 2021, which was personally served on the tenant the same date. Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The tenant filed their application on July 2, 2021, seven days after the tenant

was served with the 1 Month Notice. As the tenant filed their application within the required period, and having issued a notice to end this tenancy, the landlord has the burden of proving they have cause to end the tenancy on the grounds provided on the 1 Month Notice.

In this case the landlord selected on 1 Month Notice that “the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant” as the reason for why they wish to end this tenancy.

RTB Policy Guideline #32 speaks to the meaning of “Illegal Activity”, and what may constitute "illegal activity" and circumstances under which termination of the tenancy should be considered

***The Meaning of Illegal Activity and What Would Constitute an Illegal Activity***

*The term "illegal activity" would include a serious violation of federal, provincial or municipal law, whether or not it is an offense under the Criminal Code. It may include an act prohibited by any statute or bylaw which is serious enough to have a harmful impact on the landlord, the landlord's property, or other occupants of the residential property.*

*The party alleging the illegal activity has the burden of proving that the activity was illegal. Thus, the party should be prepared to establish the illegality by providing to the arbitrator and to the other party, in accordance with the Rules of Procedure, a legible copy of the relevant statute or bylaw.*

*In considering whether or not the illegal activity is sufficiently serious to warrant terminating the tenancy, consideration would be given to such matters as the extent of interference with the quiet enjoyment of other occupants, extent of damage to the landlord's property, and the jeopardy that would attach to the activity as it affects the landlord or other occupants.*

The landlord confirmed in the hearing that they had selected the wrong reason on the 1 Month Notice for why they wished to end the tenancy. They confirmed that the tenant has not engaged in illegal activity as the meaning is contemplated by the Act and legislation. After considering their options, the landlord confirmed that they wished to withdraw the 1 Month Notice dated June 25, 2021. The 1 Month Notice dated June 25, 2021 is therefore cancelled, and is of no force or effect.

The tenancy will continue until 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: September 27, 2021

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Residential Tenancy Branch