



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNR, CNC, OLC, MNDCT, RR, LRE, PSF, LAT**

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on May 29, 2021, to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, to have the landlord comply with the Act, for compensation for monetary loss or other money owed, to reduce rent for repairs, to suspend or set conditions on the landlord’s right to enter the rental unit, and to be authorization to change the locks to the rental unit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing. Both parties confirmed they were not recording this hearing.

I note the tenant filed to dispute a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; however, that was an error, as the tenant did not receive a notice to end tenancy pursuant to section 46 of the Act. Therefore, I have amended the tenant’s application to remove this as an issue to be considered at this hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant’s request to set aside the Notice. The balance of the tenant’s application is dismissed with leave to reapply.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require 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.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The tenancy began some time in 2014. The landlord purchased the property in 2016 and the tenancy continued. Rent in the amount of \$600.00 was payable on the first day of each month. The tenant did not pay a security deposit.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on June 30, 2021. The reason stated in the Notice was that the tenant is repeatedly late paying rent.

The landlord testified that the tenant was late paying rent for five (5) months and has been late with subsequent after the Notice was issued. The landlord stated rent was paid as follows:

September 2020, rent was paid on September 8<sup>th</sup>;  
October 2020, rent was paid on October 8<sup>th</sup>;  
November 2020, rent was paid on November 6<sup>th</sup>;  
December 2020, rent was paid on December 10<sup>th</sup>; and  
February 2021, rent was paid on February 26<sup>th</sup>.

The landlord testified that even after the Notice was issued the tenant was again late paying rent as July 2021, rent was paid on July 3<sup>rd</sup>.

The tenant testified that they do not deny they were late paying their rent prior to the Notice being issued. The tenant stated that their funding from social services had been reduce because their son was no longer living with them. The tenant stated they had no idea they could be evicted based on late payments of rent.

The tenant testified that they had been on time paying rent since March 2021, with the exception of July 2021, as they admit it was paid late.

The tenant testified that the landlord is only evicting them because they had issues with the landlord using their power for an electric fence and for the water pump.

### Analysis

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

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy. I have reviewed the Notice and if find that it was completed in accordance with section 52 of the Act.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has been repeatedly late paying rent.

In this case, the tenant had been late paying rent on five (5) occasions prior to the Notice being issued. Three late payments are the minimum number sufficient to justify a notice under these provisions.

While I accept I have the authority to determine if the Notice was not issued in a timely matter; however, I decline to do so because the tenant has been late paying subsequent rent.

It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments. I find the outcome would not change because the landlord would be entitled to use the previous late payments as they were within a twelve-month period.

I find the Notice, has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

As the landlord have accepted rent for the month of September 2021, I find it appropriate to extend the effective vacancy date in the Notice to September 30, 2021, pursuant to section 66 of the Act. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

Since I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **September 30, 2021, at 1:00 P.M.** This order must be served on the tenant and may be filed in the Supreme Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant's application to cancel the Notice, is dismissed. The landlord is granted an order of possession.

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 23, 2021

---

Residential Tenancy Branch