



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, RR, FF

### Introduction

This hearing convened in response to the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (Notice) issued by the landlord;
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement;
- a reduction in monthly rent; and
- to recover the cost of the filing fee.

The tenant and the landlord attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, both parties affirmed they were not recording the hearing.

The parties confirmed receiving the other's evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

### Preliminary and Procedural Matters-

Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the Notice and to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is **dismissed, with leave to re-apply**.

Neither party submitted a copy of the Notice. I informed the parties that without the Notice, I would be unable to either cancel or uphold the Notice.

I allowed the hearing to continue, with the understanding that the parties were required to upload a copy of the Notice into the on-line evidence portal of the RTB before the end of the hearing day. The parties confirmed that their copy of the Notice was before them for the hearing and one party would read the content of the Notice. The parties were informed that if they could agree on the content of the Notice before them and the Notice was uploaded as directed, I would consider the merits of the Notice and the tenant's application for cancellation of the Notice.

The tenant read the information contained in the Notice and the landlord said there were some variances between what the tenant read and his copy of the Notice.

Both parties submitted a copy of the Notice shortly after the hearing. I have reviewed the copies of the Notices sent by both parties and find that they did not contain the exact same information. The lengthy narrative written by the landlord in the "Details of Causes" differs in several instances between the two Notices, along with a marked-out notation being on the landlord's copy where there is none on the tenant's copy. Additionally, I find the landlord did not complete the Notice, as he omitted the rental unit address from which the tenant was to vacate.

### Analysis and Conclusion

When a landlord seeks to end a tenancy for any of the reasons listed in section 47 of the Act, the landlord is required to serve a notice which complies with section 52 as to form and content of the notice to end the tenancy and provide sufficient evidence on a balance of probabilities to support the Notice.

**Section 52 requires the following:**

**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

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) **give the address of the rental unit,**
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) **when given by a landlord, be in the approved form.**

[My emphasis added]

In the matter before me, I find the landlord's Notice did not contain the required information, as it did not list the address of the rental unit.

Tenancy Policy Guideline 18 states that an arbitrator may not amend a form which does not contain the required information.

Apart from that, as neither party submitted a copy of the Notice in advance of the hearing, the parties were informed that I would only consider the merits of the Notice if the Notices were submitted after the hearing and that they contained the same information. In this case, the Notices submitted by both parties after the hearing contained different and inconsistent information in the details of causes.

Due to these inconsistencies and the lack of the required information, I find the Notice of October 1, 2021, is not valid or enforceable. The Act requires that notices to end tenancy issued by the landlord contain all of the required information. Additionally,

inconsistent evidence is not sufficient to prove the matter at hand on a balance of probabilities.

As a result of the above, I **cancel** the Notice in this matter and is of **no force or effect**. The landlord is also reminded to complete all notices as required by section 52 of the Act in the future.

**I ORDER** the tenancy to continue until ended in accordance with the Act.

As I have cancelled the Notice, I grant the tenant recovery of the filing fee of \$100. The tenant is directed to deduct \$100 from a future monthly rent payment and inform the landlord of when she is making this deduction.

**Information for the parties –**

The tenant submitted in her application that she withheld a portion of rent for alleged expenses. The tenant is informed of her obligation under section 26 of the Act, which states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The tenant should be aware that if she fails to pay the full amount of rent, the landlord may seek to end this tenancy by way of a 10 Day Notice to End Tenancy for Unpaid Rent. If the tenant wants to withhold rent, that authority must be accomplished through dispute resolution.

It is noted that I have not made any determination or finding on the merits of the Notice, only that the Notice was improperly completed and listed inconsistent evidence. The landlord is reminded that any Notice served on the tenant must be identical to the landlord's copy for evidentiary purposes.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 15, 2021

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Residential Tenancy Branch