



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding W & Y HOLDINGS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

On August 3, 2021, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing with H.G. attending as a co-Tenant; however, the Landlord did not make an appearance at any point during the 22-minute teleconference call. All parties in attendance provided a solemn affirmation.

The Tenant advised that he served the Landlord with the Notice of Hearing package by registered mail on August 19, 2021. He provided two registered mail tracking numbers as he was not sure which number corresponded with the package that he sent to the Landlord. (Both registered mail tracking numbers are noted on the first page of this Decision). He indicated that his package was signed for by the Landlord on August 24, 2021. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served the Tenant’s Notice of Hearing package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenant advised that the tenancy started on January 1, 2018, that the rent is currently established at \$895.00 per month, and that it is due on the first day of each month. A security deposit of \$447.50 and a pet damage deposit of \$447.50 were also paid. A copy of the signed tenancy agreement was not submitted as documentary evidence.

He advised that the Landlord served the Notice by posting it to his door on or around July 26, 2021, despite the Notice indicating that it was signed by the Landlord on August 26, 2021. This was clearly a typographical error made by the Landlord and as such, the Notice has been amended under Section 68 of the *Act* to reflect the correct date of July 26, 2021. The Notice indicated that the effective end date of the tenancy was August 31, 2021.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

The onus is on the party issuing the Notice to substantiate the reasons for service of the Notice. As the Landlord has not appeared at the hearing, I am not satisfied that the Landlord has properly substantiated the grounds for ending the tenancy. As such, I am not satisfied of the validity of the Notice, and I find that the Notice of July 26, 2021 is of no force and effect.

### Conclusion

Based on the above, I hereby Order that the One Month Notice to End Tenancy for Cause of July 26, 2021 to be cancelled and of no force or effect. This tenancy continues 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: December 6, 2021

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Residential Tenancy Branch