



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Remax Little Oak Realty and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, AS, FFT

### Introduction

This hearing was scheduled to convene at 11:00 a.m. this date concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause; an order permitting the tenant to assign or sublet because the landlord's consent has been unreasonably withheld; and to recover the filing fee from the landlord for the cost of the application.

An agent for the tenant attended the hearing, however the line remained open while the telephone system was monitored for in excess of 15 minutes and no one for the landlord joined the call. The tenant's agent advised that the landlord was served with the Notice of Dispute Resolution Proceeding and other required documents by personally handing them to a person at the front counter of the landlord's office and personally to the landlord's agent on October 10, 2021. I accept that, and I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

The tenant's agent advised that evidence was to be uploaded by a Service BC office at the request of the tenant's agent, however no evidence has been uploaded to the Residential Tenancy Branch automated system. The tenant's agent advised that a One Month Notice to End Tenancy for Cause was received by the tenant and it is dated September 23, 2021 with an effective date of vacancy of October 31, 2021. The request to assign or sublet has been dealt with and settled by the parties.

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*. In this case, the landlord has not attended the hearing and has not provided any evidentiary material. Therefore, I cancel the Notice and the tenancy continues.

Since the parties have settled the application seeking an order permitting the tenant to assign or sublet, I dismiss that portion of the tenant's application.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant in that amount and I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it by filing the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

### Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated September 23, 2021 is hereby cancelled and the tenancy continues.

The tenant's application for an order permitting the tenant to assign or sublet is hereby dismissed.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

This order is final and binding and may be enforced.

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: February 01, 2022

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Residential Tenancy Branch