



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with 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 (1 Month Notice) issued by the landlord; and
- to recover the cost of the filing fee.

The tenant attended the hearing; however, the landlord did not attend or provide written evidence prior to the hearing.

As the landlord was not present, service of the tenant's Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The tenant said that she served her application package to the landlord by personal service on or about January 19, 2022. The tenant submitted a photograph showing service of the documents.

Based on this submission, I find the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Act. The hearing proceeded in the landlord's absence.

The tenant provided affirmed testimony she was not recording the hearing.

The tenant was provided the opportunity to present her evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, only the evidence relevant to the issue and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the landlord's 1 Month Notice and recovery of the filing fee?

### Background and Evidence

The tenant said the tenancy began on or about November 23, 2019, monthly rent is \$1000, and the tenant paid a security deposit of \$500. Filed in evidence was a copy of the written tenancy agreement.

The tenant submitted that the landlord served the 1 Month Notice by putting the document in the mail slot on January 2, 2022. The move-out date listed on the 1 Month Notice was January 31, 2022. Filed in evidence was a copy of the 1 Month Notice.

The tenant filed and completed her application in dispute of the 1 Month Notice Notice on January 11, 2022.

The 1 Month Notice Notice listed the reason that the tenant is repeatedly late paying rent.

The tenant said the landlord did not provide any details in the Details of Causes sections explaining the reason for the Notice.

### Analysis

In a case where a tenant has applied to cancel a Notice to end a tenancy, Rule 7.18 states the landlord has the burden of providing sufficient evidence to terminate the tenancy for the reason given on the Notice.

In this case, the 1 Month Notice was issued pursuant to section 47(1)(f), and I find that the tenant disputed the 1 Month Notice within the timeframe required under the Act.

In the absence of, or any evidence from, the landlord to support the reason listed on the notice to end tenancy, I find that it must be set aside.

As a result of the above, I therefore **ORDER** that the 1 Month Notice dated January 2, 2022, is **cancelled**, and has no force or effect. The tenancy continues until it may otherwise legally end under the Act.

I award the tenant recovery of her filing fee of \$100 paid for the application. I **direct** the tenant to deduct the amount of \$100 from a future monthly rent payment and advise the landlord when such a deduction is being made. The landlord may not serve the tenant a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for a rent deficiency when the tenant makes this deduction.

### Conclusion

The tenant's application seeking cancellation of the landlord's 1 Month Notice and recovery of the filing fee is granted.

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: April 08, 2022

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Residential Tenancy Branch