



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, FFT

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied on January 4, 2022 for:

- an order to cancel a One Month Notice to End Tenancy, dated January 1, 2022 (the One Month Notice);
- an order for the Landlord to comply with the Act, regulation, and/or the tenancy agreement; and
- the filing fee.

The Tenant attended the hearing; the Landlord did not. The Tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified he served his Notice of Dispute Resolution Proceeding and evidence on the Landlord in person on the afternoon of January 14, 2022. I accept the Tenant's undisputed affirmed testimony on service, and find the Tenant served the Landlord in accordance with section 89 of the Act.

## Preliminary Matters

The Residential Tenancy Branch Rule of Procedure 2.3 states:

**2.3 Related issues** Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As it is not related to the central issue of whether the tenancy will continue, I dismiss, with leave to reapply, the Tenant's claim for an order for the Landlord to comply with the Act, regulation, and/or the tenancy agreement.

Residential Tenancy Branch Rule of Procedure 6.6 states:

### **6.6 The standard of proof and onus of proof**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As the Landlord did not attend the hearing to prove the grounds on which the Notice was issued, I cancel the One Month Notice and find that the tenancy will continue until it is ended in accordance with the Act.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant is successful in his application, I order the Landlord to pay the \$100.00 filing fee the Tenant paid to apply for dispute resolution.

Pursuant to section 72 of the Act, the Tenant is authorized to make a one-time deduction of \$100.00 from a future rent payment in satisfaction of the above-noted award.

Conclusion

The Tenant's application is granted. The tenancy will continue until it is 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: April 11, 2022

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Residential Tenancy Branch