



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC FFT

### Introduction

The tenant applied to dispute a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 47(4) of the Residential Tenancy Act (“Act”). In addition, he applied to recover the cost of the filing fee, pursuant to section 72 of the Act.

This matter was first convened on March 29, 2022, and adjourned to May 24, 2022. The reason for the adjournment is set out in my Interim Decision of March 29. The tenant attended the hearing on May 24, 2022 while the landlord did not.

### Preliminary Issue: Non-Attendance of Landlord

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. Where a tenant disputes a notice to end a tenancy, however, the onus shifts onto the landlord who must prove the grounds, or reasons, for why they issued the notice to end tenancy.

As the landlord did not attend the hearing, the grounds for which the Notice was issued have thus not been proven. Therefore, it is my finding and order that the Notice, which is dated and signed December 9, 2021, is cancelled. The tenancy shall continue until it is ended in accordance with the Act.

Section 72 of the Act permits an arbitrator to order payment of a fee by one party to a dispute resolution proceeding to another party. As the tenant succeeded in his application to cancel the Notice, he is entitled to make a one-time deduction of \$100.00 from his next rent payment, in satisfaction of an award under section 72 of the Act.

Conclusion

The tenant's application is hereby **GRANTED**.

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal this decision is limited to grounds provided under section 79 of the Act or by way of an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: May 24, 2022

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Residential Tenancy Branch