



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, LAT, LRE, AS, OLC, FFT

### Introduction

The tenant filed an Application for Dispute Resolution on May 6, 2022 seeking:

- a. to dispute a One Month Notice to End Tenancy for Cause (the “One-Month Notice”)
- b. authorization to change the locks to the rental unit
- c. suspension/set conditions on the Landlord’s right to enter
- d. allowance for sublet/assigning
- e. the Landlord’s compliance with the legislation and/or the tenancy agreement
- f. reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 6, 2022.

### Preliminary Matter – relevant issues

The *Residential Tenancy Branch Rules of Procedure* permit an arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes ‘related issues’, and Rule 6.2 provides that an arbitrator may refuse to consider unrelated issues. It states: “. . . if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.”

As I stated to the parties in the hearing, the matter of urgency here is the possible end of this tenancy. I find the most important issue to determine is whether or not the tenancy is ending, based on any of the notices to end tenancy issued by the Landlord.

I dismiss the other grounds in the Tenant's Application, items b. through e. listed above, with leave to re-apply.

#### Preliminary Matter – relevant One-Month Notice

The *Residential Tenancy Branch Rules of Procedure* permit an applicant to amend a claim by completing an Amendment to an Application for Dispute Resolution form. This is to add to, alter or remove claims made in the original application. This process is set out in Rule 4.

The Tenant provided a copy of a second, separate One-Month Notice in their evidence for this hearing. In the hearing the Tenant stated the Landlord would have known that they added this piece to their Application because they provided a copy of it to the Residential Tenancy Branch for this hearing, and the Landlord through their participant access code for evidence uploads.

Additionally, the Tenant provided a copy of a 10-Day Notice to End Tenancy for Unpaid Rent issued by the Landlord.

The Tenant did not amend their original Application from May 6, 2022 to incorporate these two other notices to end the tenancy which the Landlord served in the interim period. I find the Tenant was aware of the Application process through the Residential Tenancy Branch, and the Branch sent such information on amending the Application to the Tenant on May 12, 2022, which stated: "You can amend or update your application before your scheduled hearing. Do not file a new application."

Because the Tenant did not amend or update their Application, I do not consider the subsequent One-Month Notice signed by the Landlord on May 28, 2022, nor do I consider the 10-Day Notice to End Tenancy for Unpaid Rent signed by the Landlord on June 2, 2022. This evidence, provided by the Tenant, has no import into the current matter of the One-Month Notice that the Tenant indicated on their Application was served by the Landlord on May 1, 2022. The Tenant must file a separate application to challenge those separate notices.

Preliminary Matter – Landlord’s evidence for this hearing

At the outset of this hearing, the Landlord presented that they served their evidence to the Tenant via registered mail. In the hearing, the Tenant confirmed that they “refused it” because the Landlord “attempted to sue” them previously and had tried to serve legal documents to them at their workplace. The Tenant stated the Landlord did *not* inform them they would be receiving documents.

The *Residential Tenancy Branch Rules of Procedure* are in place, as stated in Rule 1.1, “to ensure a fair, efficient and consistent process for resolving disputes for landlords and tenants.” The Tenant named the Landlord here as the Respondent in this proceeding; the Respondent is afforded full opportunity to provide evidence in line with procedural fairness. As per Rule 3.15, the Respondent must ensure evidence they intend to rely on at the hearing is served on the Tenant.

Here I find the Landlord provided evidence via registered mail, as specified in the *Act* s. 88(c). The Landlord provided proof of service to the Tenant, and proof of the Tenant’s refusal to accept that service. The Tenant confirmed this refusal in the hearing.

I find the Landlord complied with the *Rules of Procedure* and the *Act* by serving the documents to the Tenant for this hearing. For this reason, the Landlord’s evidence and written submissions receive my full consideration; the Tenant has foregone their opportunity to review the documents prior to the hearing.

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the One-Month Notice?

If the Tenant is unsuccessful in their Application, is the Landlord entitled to an Order of Possession of the rental unit, pursuant to s. 55 of the *Act*?

Is the Tenant entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

I have reviewed all evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

As it appears in the Landlord's evidence they provided for this hearing, they signed the One-Month Notice on April 29, 2022. In the hearing, they presented that they served this to the Tenant in person on April 29, 2022. In the Tenant's Application, they indicated the Landlord sent the One-Month Notice to a pre-agreed email. The document itself indicates that the Landlord used both of these methods of service.

On page 2, the Landlord provided their reasons for ending the tenancy by indicating:

- ☐ Tenant or person permitted on the property by the Tenant has:
  - ☐ seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- ☐ Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- ☐ Tenant has assigned or sublet the rental unit . . .without landlord's written consent.

On page 2 the Landlord also provided detail on events corresponding to their indications above. The Landlord reviewed these grounds to end the tenancy in detail in the hearing.

The Tenant also provided a pdf copy of the One-Month Notice in their evidence. This document, saved as a pdf file, was entirely blank.

The Tenant had the opportunity to respond to each of the reasons the Landlord listed in the hearing. This was to state their denial of each charge laid by the Landlord, as well as their opinion that the Landlord was lying about each of these reasons.

### Analysis

The *Act* s. 55 states, in part:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if:
- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy, and

- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Act s. 52 states:

- 52** In order to be effective, a notice to end a tenancy must be in writing and must
- (a) be signed and dated by the landlord or tenant giving the notice,
  - (b) give the address of the rental unit,
  - (c) state the effective date of the notice,
  - (d) . . . state the grounds for ending the tenancy,  
    . . .and
  - (e) when given by a landlord, be in the approved form.

In this hearing, the Landlord submitted a copy of the One-Month Notice. The copy does not include the address of the rental unit. The copy sent by the Tenant for this hearing was entirely blank. In combination with the copy provided, I find the document did not give the address of the rental unit, and that is a strict requirement of s. 52.

Because the document does not meet the requirements of s. 52, the condition of s. 55(a) was not met here by the Landlord. I grant a cancellation of the One-Month Notice for this reason.

I find the One Month Notice, allegedly issued by the landlord on April 29, 2022 does not comply with the requirement set out in s. 52(b).

As the Tenant was successful in this application, they may recover the \$100 filing fee paid for this Application. I authorize the Tenant to withhold the amount of \$100 from one future rent payment.

Conclusion

For the reason above, I order the One-Month Notice is cancelled and the tenancy remains in full force and effect.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 6, 2022

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Residential Tenancy Branch