



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HIGHPOINT REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

**CNC-MT, RP**

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to be allowed more time to dispute a notice to end tenancy, to cancel a One Month Notice to End Tenancy for Cause, (the "Notice") issued on July 25, 2022, and to have the landlord make repairs to the rental unit.

Only the landlord appeared. I confirmed with the digital file that on September 8, 2022, the tenant confirmed with the Residential Tenancy Branch that the hearing was still required. On October 3, 2022, the tenant was sent a reminder notification of the hearing schedule for today at 11:00 am. The tenant did not appear although we waited ten minutes for the tenant to call into the hearing.

The tenant submits in their application that they are filing late due to health issues. The tenant also submits that they did not realize that the pickup order in their mail was for an eviction notice,. The tenant indicated in their application that the notice delivery date was July 30, 2022.

The Canada Post tracking history show the landlord sent the Notice to the tenant on July 25, 2022, a notice card was left for the tenant on July 26, 2022 and again on August 1, 2022. The tenant pickup the package on August 15, 2022, 20 days after the first notification card was left.

While I accept the tenant may have health issues; however, the tenant did not attend the hearing to prove they have an exception circumstance that prevented them from filing their application on time, such as being in the hospital. Further, the tenant had acknowledged they received the Canada Post notification card on July 30, 2022, but

failed to pick up the package containing the Notice until August 15, 2022, which I find unreasonable. Therefore, I dismiss the tenant's application to be allowed more time.

### Issue(s) to be Decided

Is the Notice valid?

### Background and Evidence

The tenancy began on May 14, 2020. Rent in the amount of \$3,900.00 was payable on the first of each month. A security deposit of \$1,950.00 and a pet damage deposit of \$1,950.00 were paid by the tenant.

The tenant filed in evidence a copy of the Notice and the reason within the Notice is that the tenant is repeatedly late paying rent.

The landlord stated that the tenant rent is due on the 1<sup>st</sup> of each month and the tenant was late paying rent for February, March, April, July 2022 and August 2022. Filed in evidence a rent receipt and e-transfers supporting rent was late. The landlord stated that the tenant has failed to pay any rent for September and October 2022. The landlord requested an order of possession.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the evidence that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration by the tenant. I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Although not required to hear the merits of the Notice because the tenant's application to be granted more time to dispute the Notice was dismissed and the tenant is conclusively presumed to have accepted the Notice that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date, which was August 31, 2022.

However, even if I allowed the tenant more time to dispute the Notice, which I did not, I find the tenant's application to cancel the Notice would fail as the landlord has submitted sufficient evidence that the tenant is repeatedly late paying rent.

I find the Notice is valid and remains in full force and effect. As the tenant has failed to pay any rent for September and October 2022, I find I cannot consider giving the tenant additional time to vacate. The tenant was required by the Act to vacate on August 31, 2022, the date stated within the Notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant's entire application is dismissed without leave to reapply. The landlord is granted an order of possession.

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: October 06, 2022

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Residential Tenancy Branch