



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Shuswap Manor  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNE, FFT

### Introduction

This hearing was reconvened from a hearing on October 20, 2022 regarding the Tenants' application under the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy for Cause dated August 24, 2022 (the "One Month Notice") pursuant to section 47; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

On October 20, 2022, I issued an interim decision (the "Interim Decision") adjourning this matter so that the parties may conduct an inspection of the rental unit and potentially reach a settlement. This decision should be read together with the Interim Decision.

One of the Tenants, GSD, attended this hearing. No one attended this hearing on behalf of the Landlord. I left the teleconference hearing connection open until 9:43 am in order to enable the Landlord's representatives to call into the hearing scheduled to start at 9:30 am. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that GSD and I were the only ones who had called into the hearing.

### Preliminary Matter – Notice for Reconvened Hearing

The Residential Tenancy Branch provided the parties with notice of this reconvened hearing via email on October 20, 2022. I find the Landlord and the Tenants were sufficiently served with notice of this reconvened hearing pursuant to section 71(2) of the Act.

Preliminary Matter – Inspection of Rental Unit and Aftermath

As noted in the Interim Decision, the parties agreed to conduct an inspection of the rental unit at 12:30 pm on October 20, 2022. I directed that the parties may submit photographs of the rental unit taken during this inspection for the reconvened hearing.

Records from the Residential Tenancy Branch indicate that on October 24, 2022, the Landlord uploaded photographs of the rental unit with the following comment:

*we attended to the apartment as directed at our meeting of october 20. the photos attached are evidence of the cleanliness of the apartment. we have no concerns about the cleaning at this time.*

Based on this evidence and the fact that no one attended the reconvened hearing on behalf of the Landlord, I find the Landlord has decided not to pursue eviction under the One Month Notice.

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure places the onus on a landlord to prove the reason they wish to end the tenancy when a tenant applies to cancel a notice to end tenancy. As the Landlord has decided not to pursue eviction under the One Month Notice, I find the Landlord has not discharged its onus of proof which is required for upholding the One Month Notice.

Accordingly, I order that the One Month Notice be cancelled and of no force or effect.

In the absence of a settlement agreement between the parties, I conclude the Tenants have been successful in cancelling the One Month Notice. As such, I award the Tenants reimbursement of their filing fee for this application under section 72(1) of the Act.

Conclusion

The One Month Notice is cancelled and of no force or effect.

Pursuant to section 72(2)(a) of the Act, the Tenants are authorized to deduct \$100.00 from rent payable to the Landlord for the month of December 2022, on account of the filing fee awarded in this application.

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: November 16, 2022

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Residential Tenancy Branch