



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) filed by the Tenant under the *Residential Tenancy Act* (the Act) on August 18, 2022, seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the One Month Notice).

The hearing was convened by telephone conference call at 9:30 A.M. (Pacific Time) on November 29, 2022, and was attended by the Tenant, the Tenant's advocate T.B. (the Advocate), the Landlord, and the Landlord's assistant A.H. (the Assistant). All testimony provided was affirmed. As the Assistant acknowledged service of the notice of dispute resolution proceeding (NODRP) and stated that the Landlord has no concerns with regards to the date or method of service, the hearing therefore proceeded as scheduled. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The parties were advised that pursuant to rule 6.10 of the Residential Tenancy branch Rules of Procedure (the Rules of Procedure), interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that personal recordings of the proceeding were prohibited under the Rules of Procedure and confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in accordance with the Rules of Procedure, I refer only to the relevant and

determinative facts, evidence, and issues in this decision. At the request of the parties, a copy of the decision and any orders issued in their favor, will be sent to them by the Residential Tenancy branch (the Branch) by e-mail at the e-mail addresses provided at the hearing.

#### Issue(s) to be Decided

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

#### Background and Evidence

The parties agreed that the One Month Notice in the documentary evidence before me was served on the Tenant on August 11, 2022. The One Month Notice is on at 2021 version of the form, is signed and dated August 11, 2022, has an effective date of September 30, 2022, and states that the notice has been served because a family member will be moving in.

#### Analysis

Residential Tenancy Branch (Branch) records indicate that the Tenant filed the Application seeking cancellation of the One Month Notice on August 18, 2022, and I therefore find that the Tenant disputed the One Month Notice in compliance with section 47(4) of the Act.

Although section 49 of the Act allows landlords to end a tenancy because they, or their close family member, intend in good faith to occupy the rental unit, they must first serve a Two Month Notice to End Tenancy for Landlords Use of Property (Two Month Notice) in the approved form. In this case, the Landlord erroneously used the One Month Notice form for ending tenancies under section 47 of the Act, in place of the correct Two Month Notice form for ending tenancies under section 49 of the Act. Further to this, I find that the One Month Notice does not contain the correct rental unit address, as the unit identifier is missing. As a result of the above, and as occupancy by the Landlord or their close family member is not a ground for ending a tendency via a One Month Notice under section 47 of the Act, I therefore grant the Tenant's Application seeking cancellation of the One Month Notice and I order that it is cancelled and of no force or effect. Should the Landlord wish to end the tenancy under section 49 of the Act, a proper notice for doing so must be served.

Conclusion

I grant the Tenant's Application seeking cancellation of the One Month Notice and order that the tenancy continue in full force and effect until it is ended in accordance with the Act.

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

Dated: November 29, 2022

---

Residential Tenancy Branch