



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDCT, RP, PSF, LRE, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's application under the *Residential Tenancy Act* (the "Act") for:

- disputing a One Month Notice to End Tenancy for Cause dated June 16, 2022 (the "One Month Notice") pursuant to section 47;
- a Monetary Order of \$1,301.00 for the Tenant's monetary loss or money owed by the Landlord pursuant to section 67;
- an order for the Landlord to make repairs to the rental unit pursuant to section 32;
- an order suspending or setting conditions on the Landlord's right to enter the rental unit pursuant to section 70(1);
- an order that the Landlord comply with the Act, the regulations, or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

The Landlord, the Tenant, and the Tenant's agent BM attended this hearing. They were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

All attendees were advised that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings.

Preliminary Matter – Service of Dispute Resolution Documents

The Landlord acknowledged receipt of the notice of dispute resolution proceeding package and the Tenant's documentary evidence (collectively, the "NDRP Package"), but stated that it was received late. The Landlord did not request an adjournment or more time to review the Tenant's documents. As such, I find the Landlord was sufficiently served with the NDRP Package pursuant to section 71(2) of the Act. The Tenant acknowledged receipt of the Landlord's documentary evidence. I find the Tenant was served with the Landlord's evidence in accordance with section 88 of the Act.

Preliminary Matter – Severing of Unrelated Claims

Rules 2.3 and 6.2 of the Rules of Procedure state as follows:

2.3 Related issues

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

6.2 What will be considered at a dispute resolution hearing

The hearing is limited to matters claimed on the application unless the arbitrator allows a party to amend the application.

The arbitrator may refuse to consider unrelated issues in accordance with Rule 2.3 [*Related issues*]. For example, 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.

(emphasis added)

In this case, I find the most important claim in this application is the Tenant's claim to dispute the One Month Notice. I find that the balance of the claims on this application, except for the claim to recover of the filing fee, is unrelated to the claim to dispute the One Month Notice. As such, I dismiss those unrelated claims with leave to re-apply.

Issues to be Decided

1. Is the Tenant entitled to cancel the One Month Notice?

2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

This tenancy commenced with a previous landlord on February 1, 2017 and is month-to-month. Rent is \$1,929.10 due on the first day of each month. The Tenant paid a security deposit and pet damage deposit of \$947.50 each.

Copies of the One Month Notice have been submitted into evidence. The One Month Notice is signed by the Landlord and has an effective date of July 31, 2022. The reasons for the notice are:

- Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord
- Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park
- 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/site/property/park without landlord's written consent

The details of cause stated on the One Month Notice are as follows (portions redacted for privacy):

Aug 2020 written notice to clean up common areas and a driveway not attached to [Tenant] rental agreement.

Mar 2021 property in violation of [municipal] Bylaws

May 2021 written notice to clean up common areas and a driveway not attached to [Tenant] rental agreement

Apr 2022 property in violation of [municipal] Zoning Bylaw no. [number] sec [number] and [municipal] Unsightly Premises bylaw no. [number] sec [number]

- overflowing garbage,*
- uncut grass, and noxious weeds including Blackberries,*
- furniture and junk stored under the deck,*
- wood laying on ground,*
- a camper on blocks in the driveway that has a ladder leaning up on it.*
- garbage in an unlicensed truck.*
- tools stored on the front yard,*
- an unlicensed motorcycle,*
- an unlicensed trailer.*

Jun 06 2022 written notice to keep [Tenant's] belongings and vehicles out of the driveway which is not included as part of [the Tenant's] rental agreement and to not break and enter into the lower rental suite below [the Tenant's] rental suite. Additionally clean up the common areas of the yard and garbage and belongings and dog feces.

June 11 2022 while attending the lower rental suite not rented to [the Tenant] his vehicle was noted to be in the driveway and upon entry into the lower suite I noted [the Tenant's] belongings. I also noted damage to freshly steam cleaned carpets, a light fixture from the dining room of the upper suite was also present in the lower suite and upon further inspection of the lower suite I noticed all light fixtures and switches to be non working.

June 14 2022 I again attended the lower suite not rented to [the Tenant] with an accredited electrician from [company]. Upon investigation of the light fixtures and switches they were noted to be non working. It was determined by the electrician the fixtures and light switches had been tampered with and were in a non working state. Upon entering the upper unit rented to [the Tenant], it was noticed that multiple infractions have been incurred against the rental contract including and not limited to smoke detectors being removed and burnt wood and garbage in the fireplace. The original rental contract signed by [the Tenant] states that the fireplace is only for decorative purposes and not to be used for burning. There

are multiple other infractions not mentioned in this description of details that were preformed by [the Tenant] contrary to the binding contract of the tenancy agreement.

[The Tenant's] consistent non compliance with local bylaws and written notices as well as the breaking and entering into the lower suite and tampering with electrical switches and light fixtures have resulted in damage to the property and he has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord and the property itself.

The Tenant's application indicates that the Tenant received a copy of the One Month Notice posted to the Tenant's door on June 16, 2022.

The Landlord testified that the Tenant has been running his construction business out of the rental property. The Landlord stated she gave the Tenant written notice to clean up common areas and the driveway. The Landlord testified that the Tenant had couches on the front lawn. The Landlord stated that the Tenant has a camper that is constantly parked on the property.

The Landlord explained that her father, the previous landlord, passed away a few years ago. The Landlord stated that her father's truck was in the driveway and the Landlord had been unable to remove it due to estate issues.

The Landlord testified that municipal bylaw enforcement previously took issue with the garbage and construction materials on the property, as well as unlicensed vehicles stored in the front yard, which were the Landlord's father's truck, the Tenant's camper, and the Tenant's motorcycle.

The Landlord testified the Tenant broke into the lower suite of the house which was not part of the rental unit. The Landlord testified she found light fixtures changed and debris in the suite. The Landlord testified that on June 11, 2022, she found all of the light switches and power outlets in the lower suite were not working. The Landlord stated she called an electrician who found that the main power from the fuse panel to the switches had been disconnected and was sitting in the wall, and that there were two power jumps which had been tampered with. The Landlord testified that the Tenant created a fire hazard and was seriously jeopardizing the property.

The Landlord testified that the smoke detector in the rental unit was still removed, and that she had told the Tenant in 2019 to re-install it. The Landlord testified she observed the Tenant has been using the fireplace, when the tenancy agreement states that the fireplace is to be for decorative purposes only.

The Landlord testified that there are multiple other infractions, including the Tenant keeping cats when the tenancy agreement allows the Tenant to only have one pet, his dog. The Landlord stated that the Tenant is growing marijuana on the property without permission.

The Landlord stated that the Tenant seems to be quite “rough” on things—the Landlord noticed one side of the drawer on the stove has been ripped off, the fridge handle was ripped off, and most covered doors have been ripped off kitchen cabinets. The Landlord stated that the Tenant put a covering on the kitchen countertops which have a strange coating. The Landlord testified that the fixtures were brand new at the time that the Tenant moved in.

The Landlord testified that the Tenant installed a new light fixture in the rental unit without notice, so the Tenant would have had to break into the lower suite to turn off the breaker.

The Landlord testified that every wall has some dent and there are holes above the windows as if the Tenant had tried to screw on curtains.

The Landlord stated that the Tenant took over the laundry room as a storage room.

The Landlord stated that there is wood outside the house, junk and garbage under the deck, and garbage in the driveway. The Landlord stated that there is a camper on the front lawn with carpet laid out damaging the lawn. The Landlord stated she did not know whether people were living in the camper. The Landlord confirmed that the wood and camper are still there, and the motorcycle is now parked on the street. The Landlord stated that the camper is unsightly with a ladder leaning off its side.

The Landlord submitted additional evidence including:

- a handwritten note dated August 10, 2020, requesting the Tenant to clean up the yard and “all common areas”, to remove couches from the lawn, and to clean out the driveway

- a handwritten note dated May 11, 2022, requesting the Tenant to clean up the front and back yards, the driveway, garbage behind the Landlord's father's truck, and the laundry room
- a picture of a note attached to the door labeled June 2022, but the note is not legible
- a handwritten note dated July 22, 2022 requesting the Tenant to remove personal belongings ("camper, motorcycle, etc.") from the driveway due to blocking access to lower suite
- a letter from municipal bylaw enforcement dated March 17, 2021 regarding garbage and construction material on the property
- a letter from municipal bylaw enforcement dated April 28, 2022 regarding unlicensed vehicles on the front yard (truck, trailer, and motorcycle)
- invoice from electrician dated June 14, 2022
- a text message to the Tenant in 2019 requesting the Tenant to re-install the smoke detector
- photographs taken in and around the property

In response, the Tenant testified that he had been given permission to use the breaker box before. The Tenant stated he did not need to go into the lower suite to install the kitchen light.

The Tenant stated that he had a telephone conversation a few years ago with the Landlord that he is allowed to have fires in the fireplace if he gets a chimney sweeper. The Tenant testified that he paid \$150.00 for a chimney sweeper.

The Tenant referred to two letters from neighbours on either side of the property submitted into evidence.

The Tenant testified that a new smoke alarm is needed. The Tenant stated he tried to replace the battery, but it constantly beeps.

The Tenant testified he did not tamper with any electrical downstairs, other than to access the breaker box.

The Tenant argued that the landlord wants to rent the rental unit for more money.

The Tenant testified that the Landlord's father used to reside in the lower suite, and after he passed away, there was a squatter in the suite. The Tenant testified that this

person was known to the Landlord's father. The Tenant stated he informed the Landlord and called the police. The Tenant testified that the suite has been empty for a few years. The Tenant testified he has never seen the Landlord or her family stay there.

The Tenant testified he figured no one was living downstairs and the driveway was empty, so he could park in the driveway. The Tenant testified he did not get any complaints about parking before the One Month Notice.

The Tenant testified he did not receive a complaint about his partner's cats prior to this hearing. The Tenant testified that his partner has been living with him in the rental unit for about 2 years.

The Tenant testified that he bought a canopy for the camper on the lawn to have a picnic. The Tenant denied that there had been a suggestion or question about anyone living in the camper.

The Tenant testified that he installed extra shelving in the laundry room which made it better. The Tenant testified that the laundry facilities were originally shared with the Landlord's father, but no one else uses the laundry since then.

The Tenant testified that the bylaw officer was shocked to hear that the lower suite was unoccupied and had been unoccupied for about 3 years. The Tenant expressed suspicion that it was the Landlord who had filed the bylaw complaints.

The Tenant testified that the photographs of the property he submitted are accurate pictures of what the property currently looks like. The Tenant explained that he applied a sticker to the kitchen countertops and that those will come right off.

In reply, the Landlord testified that the only time she gave the Tenant permission to go into the lower suite to turn off the breaker was when the Landlord was replacing the dishwasher in the rental unit. The Landlord testified that her mother had left the lower suite unlocked. The Landlord stated that the Tenant confirmed he had locked the door after.

The Landlord testified that a gardener she hired to work on the property refused to work because of the construction debris and dog feces that were there. The Landlord testified that she came down to cut the blackberries, but access to the property was blocked by the camper and other vehicles.

The Landlord denied that she had called the bylaw officers. The Landlord stated that the last bylaw officer let things go because the Landlord told him that the Tenant is being evicted. The Landlord acknowledged that the Tenant cleaned up the garbage and the camper was “cleaned out of the driveway”. The Landlord acknowledged that it is not a bylaw infraction to have a camper parked on the driveway or on the lawn but stated that it was “against [her] wishes” for the camper to be there.

The Landlord stated that she noticed an ash tray in the rental unit from the Tenant’s photographs. The Landlord stated that the Tenant is not supposed to be smoking in the rental unit.

The Landlord denied having given the Tenant permission to have fires in the fireplace.

BM testified that he went to the rental unit recently for dinner, and that the photographs of the property submitted by the Tenant show what BM knows about the home. BM argued that the suite downstairs cannot be a legal suite because there is only one breaker for a whole house. BM argued that having a driveway empty seems like a terrible waste. BM stated that the Tenant and his partner, if reasonably asked to make things better for the Landlord, would do them. BM stated that he and the Tenant are hearing about some of the issues raised by the Landlord for the first time.

Analysis

1. Is the Tenant entitled to cancel the One Month Notice?

Section 47 of the Act permits a landlord to end a tenancy for cause upon one month’s notice to the tenant. Section 47(1) describes the situations under which the landlord will have cause to terminate the tenancy.

Section 47(3) of the Act requires a notice to end tenancy for cause given by the landlord to comply with section 52, which states:

Form and content of notice to end tenancy

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) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

Section 47(2) further requires that the effective date of a landlord's notice under section 47 must be:

- (a) not earlier than one month after the date the notice is received, and
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

In this case, I have reviewed the One Month Notice and find that it complies with the requirements of sections 52 and 47(2) of the Act.

I find the Tenant was served with a copy of the One Month Notice on June 16, 2022, in accordance with section 88(g) of the Act.

Section 47(4) of the Act permits a tenant to dispute a one month notice to end tenancy for cause within 10 days of receiving such notice. Therefore, the Tenant had until July June 26, 2022 to dispute the One Month Notice. Records indicate that the Tenant submitted this application on June 24, 2022. I find the Tenant made this application within the 10-day dispute period required by section 47(4) of the Act.

Where a tenant applies to dispute a notice to end a tenancy issued by a landlord, Rule 6.6 of the Rules of Procedure places the onus on the landlord to prove, on a balance of probabilities, the grounds on which the notice to end tenancy were based.

In this case, the reasons stated in the One Month Notice correspond to sections 47(1)(d)(i), (d)(iii), (e)(i), (e)(iii), (f), (h), and (i) of the Act, which state as follows:

Landlord's notice: cause

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

[...]

- (d) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
[...]
 - (iii) put the landlord's property at significant risk;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - (i) has caused or is likely to cause damage to the landlord's property,
[...]
 - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
[...]
- (h) the tenant
 - (i) has failed to comply with a material term, and
 - (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
- (i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 [*assignment and subletting*];

Based on the One Month Notice, I find the Landlord's primary concerns to be the issues relating to bylaw compliance and the lower suite electrical. As such, I will address these two issues first, followed by the other issues mentioned during the hearing.

a. Bylaw Compliance

According to Residential Tenancy Branch Policy Guideline 32. Illegal Activities ("Policy Guideline 32"), "illegal activity" under section 47(1)(e) of the Act includes "a serious violation of federal, provincial or municipal law", and "may include an act prohibited by any statute or bylaw which is serious enough to have a harmful impact on the landlord, the landlord's property, or other occupants of the residential property".

Policy Guideline 32 further states that "[t]he party alleging the illegal activity has the burden of proving that the activity was illegal", and that "[i]n considering whether or not the illegal activity is sufficiently serious to warrant terminating the tenancy, consideration

would be given to such matters as the extent of interference with the quiet enjoyment of other occupants, extent of damage to the landlord's property, and the jeopardy that would attach to the activity as it affects the landlord or other occupants."

In this case, I find there is insufficient evidence to suggest that any charges or penalties resulted from the first bylaw infraction letter dated March 17, 2021.

I find the second bylaw infraction letter dated April 28, 2022 cites sections prohibiting unlicensed vehicles and a property being "unsightly". I find this letter provided a date of May 26, 2022 for re-inspection.

I have reviewed the photographs submitted by the Landlord, which show some wood blocks on the front side of the house, a lawn mower and other items along the side of the house, various personal items piled under the back deck, wood planks and lawn chairs in the backyard, and more items scattered on the driveway near the Tenant's camper. I have compared these photographs with those submitted by the Tenant. The Tenant's photographs show the personal items stacked more tightly underneath the back deck. The items did not appear to spill onto the pathway or back lawn. The front yard of the property also appears to be well-maintained and clear of debris, although I note the photograph does not show the entire front side of the house.

I find the Landlord acknowledged that the Tenant cleaned up garbage from the property. Based on the evidence presented, I am unable to find that the Tenant's accumulation of personal items and garbage on the property "has caused or is likely to cause damage to the landlord's property". I do not find the photographs to show any damage that would have been caused by items left on the property. I am unable to conclude that the items stored underneath the back deck are likely to cause damage to the Landlord's property.

In contrast, I do find there is risk of damage to the Landlord's lawn due to the placement of the camper and rug, for which the Tenant would be liable to the Landlord. However, I find the Landlord acknowledged that it is not a bylaw infraction for the Tenant to have his camper on the property. Therefore, I am unable to conclude that having the camper on the driveway or lawn of the property is an "illegal activity" which would warrant ending the tenancy under section 47(1)(e)(i) of the Act.

Overall, I find there is insufficient evidence to suggest that the Landlord has already been, or is likely to be, charged or fined by bylaw enforcement due to the issues mentioned in the Marcy 17, 2021 or April 28, 2022 letters. I find there is insufficient

evidence to indicate that bylaw enforcement is not satisfied with the current state of the property or intends to take further action unless more changes are made.

I note the Landlord's position is that the bylaw officer is letting the matter go due being told that the Tenant has been evicted. However, I find there is insufficient evidence to prove on a balance of probabilities that this was the sole reason. I find it is equally possible that the bylaw officer's concerns in the April 28, 2022 letter have been addressed due to the cleanup, such that the property is no longer "unsightly", and that the Tenant's motorcycle parked on the street resolves the issue with the unlicensed vehicles.

In *Senft v. Society For Christian Care of the Elderly*, 2022 BCSC 744 (at paras. 39-40), the Supreme Court of British Columbia determined the fact that the tenant later cleaned up the rental unit was relevant to an assessment of whether the tenant's conduct placed other occupants or the landlord's interests at risk, and whether an eviction was necessary or justified in the context of the protective purposes of the Act.

In this case, I find there is insufficient evidence to suggest that the Landlord is at risk of charge or penalty from bylaw enforcement. I am therefore unable to conclude that the Tenant has engaged in illegal activity which "has jeopardized or is likely to jeopardize a lawful right or interest" of the Landlord such that eviction is warranted under section 47(1)(e)(iii) of the Act.

Based on the foregoing, I conclude the Landlord has not proven cause under sections 47(1)(e)(i) or 47(1)(e)(iii) of the Act.

b. Lower Suite Electrical

Based on the evidence presented, I find on a balance of probabilities that the Tenant had accessed the lower suite without the Landlord's permission to flip the breaker box. I accept the Tenant may have disconnected power to the electrical switches and outlets in the lower suite in the process, whether intentionally or not. I find the Landlord incurred the cost of an electrician as a result.

The electrician's invoice dated June 14, 2022 states that "A couple of the switch's had been tampered with by the tenant and power jumps were disconnected".

Based on this invoice and the Landlord's testimony, I am unable to conclude that disconnected power jumps puts the property at "significant risk" of fire. I find the Landlord has not provided sufficient details to explain how the Tenant had "tampered" with the switches and why the risk of fire would be greater with the power disconnected.

I conclude the Landlord has not proven that the Tenant "put the landlord's property at significant risk" under section 47(1)(d)(iii) of the Act, such that the tenancy should be ended.

Nevertheless, I strongly caution the Tenant to refrain from accessing the lower suite except with the Landlord's express permission.

c. Other Issues

I have reviewed the photographs of the rental unit submitted by the parties. I find the photographs do not show that the rental unit has been "destroyed" by the Tenant. I accept BM's testimony that the Tenant's photographs accurately reflect the current situation in the rental unit based on his recent visit. I find the Tenant's photographs show the interior of the rental unit to be generally neat and clean. I accept that there are some scratches inside the kitchen cabinets. I find the kitchen countertop appears to be covered in marble pattern contact paper and appears undamaged. I note both parties have submitted photographs about the missing smoke detector, though I find it is disputed as to whose obligation it is to repair it. I find the Tenant replaced the fridge and light fixture in the rental unit and left unused some items in the lower suite. I find that some areas of the lower suite were left messy and dirty, but I do not find there was "extraordinary" damage. I find the Tenant may have made alterations in the rental property without the Landlord's permission. However, based on the photographs submitted, I do not find the Tenant to have caused "extraordinary" damage to the rental property under section 47(1)(f) of the Act.

I find the Landlord's written notes to the Tenant dated August 10, 2020, May 11, 2021, and July 22, 2022 only referred to cleaning up the property and asking the Tenant to remove his belongings. I find the photographic evidence does not show that the property remains unclean. Moreover, I find the Landlord did not provide evidence to show that the Tenant was prohibited from having a camper on the property under the tenancy agreement and that this was a material term of the agreement under section 47(1)(h)(i) of the Act. Additionally, I find the Landlord alleges that the Tenant breached the tenancy agreement in other ways, such as by using the fireplace, having more pets,

or smoking in the rental unit. However, I find the Landlord did not give the Tenant any written notice of these alleged breaches or reasonable time to cure these breaches as required under section 47(1)(h)(ii) of the Act. I note that it is also up to the Landlord to demonstrate that these terms are material terms of the tenancy agreement (see Residential Tenancy Policy Guideline 8. Unconscionable and Material Terms). Based on the foregoing, I conclude the Landlord has not demonstrated that the Tenant has breached a material term of the tenancy agreement and has not corrected the situation within reasonable time after written notice to do so under section 47(1)(h) of the Act.

I find the Landlord suggested that other individuals may be living in the Tenant's camper, but did not provide any further details or evidence in support. I find the Landlord has not demonstrated that the Tenant has sublet or assigned the rental unit without the Landlord's written consent under section 47(1)(i) of the Act.

Similarly, I do not find the conduct of the Tenant as determined in this hearing to amount to "significant interference" with or "unreasonable disturbance" of the Landlord under section 47(1)(d)(i) of the Act such that eviction is warranted. I note I do not find the Landlord to have provided much argument on this point. I caution the Tenant that incurring further bylaw infractions or continuing to access the lower suite without permission may jeopardize this tenancy.

In sum, I conclude the Landlord has not provided sufficient evidence at this time to prove cause on a balance of probabilities under the One Month Notice. Accordingly, I order that the One Month Notice be cancelled and of no force or effect.

2. Is the Tenant entitled to recovery of the filing fee?

The Tenant has been successful in cancelling the One Month Notice. I award the Tenant reimbursement of the filing fee in accordance with section 72(1) of the Act.

Pursuant to section 72(2)(a) of the Act, I authorize the Tenant to deduct \$100.00 from rent payable to the Landlord for the month of January 2023.

Conclusion

The Tenants claim to dispute the One Month Notice is successful.

The One Month Notice is cancelled and of no force or effect. This tenancy shall continue until ended in accordance with the Act, the regulations, and the parties' tenancy agreement.

Pursuant to section 72(2)(a) of the Act, I authorize the Tenant to deduct \$100.00 from rent payable to the Landlord for the month of January 2023 on account of the filing fee awarded in this decision.

The balance of the Tenant's claims on this application is dismissed with leave to re-apply. Leave to re-apply does not extend any applicable limitation periods.

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: December 08, 2022

Residential Tenancy Branch