



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

<u>Dispute Codes</u>	Tenant application #1:	CNC, MNRT, RR, OLC, OT, FF
	Tenant application #2:	CNC, MNRT, RR, OLC, OT, FF

### Introduction

This telephone conference call hearing was convened as the result of the tenant's two applications for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant first applied on August 9, 2022, for an order cancelling the One Month Notice to End Tenancy for Cause (August Notice) issued by the landlord dated August 9, 2022, compensation for the cost of emergency repairs, a reduction in monthly rent, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, other relief, and recovery of the cost of the filing fee.

The tenant then filed a subsequent application for dispute resolution for an order cancelling another One Month Notice, dated September 9, 2022 (September Notice), along with the same issues listed in the original application.

The files were administratively joined by the Residential Tenancy Branch (RTB) as repeated applications, set for the same time and date.

The tenant, the landlord, and the landlord's witnesses were present for the hearing. The witnesses were excused until their testimony was required, if necessary.

The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. All parties were affirmed. During the hearing, the parties were reminded about the conduct of the hearing and were reminded to not interrupt the hearing.

The landlord confirmed receiving the tenant's two applications.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules of Procedure (Rules) and only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Preliminary and Procedural Matters-

Further, Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which are the applications to cancel the two 1 Month Notices. I find that not all the claims on the applications are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the two 1 Month Notices and the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's applications is dismissed, with leave to re-apply. Leave to reapply does not extend any applicable time limitation periods.

I informed the parties of this decision at the hearing.

As to another procedural matter, after the hearing had concluded and the parties informed of the results, I asked the parties if they had questions. The landlord proceeded to begin asking questions about what she could do to evict this tenant and began to describe his alleged behaviour. When attempting to inform the landlord I would not advise them on this matter, the landlord failed to stop and listen to my response. The landlord continued to talk without stopping in order for me to say the hearing had concluded. As the hearing had actually concluded and the landlord refused to stop talking, I disconnected from the hearing, at which time the hearing stopped.

#### Issue(s) to be Decided

Is the tenant entitled to cancellation of the two 1 Month Notices?

Is the tenant entitled to recovery of the cost of the filing fee?

#### Background and Evidence

Filed in evidence were two 1 Month Notices served to the tenant by the landlord. The tenant's evidence also reflected two previous dispute resolution applications, both of which related to other Notices to end the tenancy by the landlord. One was for another

1 Month Notice given to the tenant and the other related to a Two Month Notice to End Tenancy for Landlord's Use of Property (Notice) issued by the landlord. In those hearings, the two previous Notices to end the tenancy were cancelled. Those file numbers are reflected on the cover page of this Decision.

On the August Notice, the landlord failed to mark any cause for ending the tenancy. Instead of marking a cause, the landlord wrote that she wanted the rental unit space to use for her business. In the hearing, the landlord testified that she needs the space for her grandson's business.

On the September Notice, the landlord failed to sign the document.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 47 of the Act provides that a landlord may end a tenancy if they have sufficient cause for so doing. Section 47(3) of the Act states "a notice under this section **must** comply with section 52 [*form and content of notice to end tenancy*]".

When a landlord seeks to end a tenancy for any of the reasons listed in this section of the Act, the landlord is required to serve a notice which complies with section 52 as to form and content of the notice to end the tenancy.

**Section 52 requires the following:**

#### **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.**

[My emphasis added]

As to the August Notice, the landlord was instructed to mark the reason(s) for giving the tenant the Notice, and, here, the landlord failed to mark any of the boxes next to the listed reasons under section 47(1) of the Act.

On the September Notice, the landlord failed to sign the document.

I therefore find the landlord submitted insufficient evidence that the tenant was served with two Notices containing the required content.

Tenancy Policy Guideline 18 states that an arbitrator may not amend a form which does not contain the required information.

Therefore, I find both the August and September 1 Month Notices are not valid as they are missing the necessary and required information. The Act requires that notices to end tenancy issued by the landlord be in the approved form due to the fact that the approved forms contain all of the required information a tenant would require to dispute the notice if necessary.

As a result of the above, I **ORDER** the August 1 Month Notice and the September 1 Month Notice in these matters are **cancelled** and are of **no force or effect**.

**I ORDER** the tenancy to continue until ended in accordance with the *Act*.

As the tenant's application was successful, I grant the tenant the recovery of the cost of the filing fee under section 72 of the Act in the amount of **\$100**. Pursuant to sections 67 and 72 of the Act, I grant the tenant a one-time rent reduction of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee.

I have not granted the tenant recovery of the filing fee for the repeated application, as the tenant could have chosen to amend his original application instead of filing a new application.

Conclusion

The tenant's applications are successful. The 1 Month Notices issued by the landlord are cancelled and are of no force or effect.

The tenancy shall continue until ended in accordance with the Act. The tenant has been granted a one-time rent reduction of \$100 from a future month's rent in full satisfaction of the recovery of the cost of the filing fee for the original application.

The issues not related to the tenant's requests to cancel the August Notice and September Notice on the tenant's two applications were severed and dismissed, with leave to reapply.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 05, 2023

---

Residential Tenancy Branch