



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing was scheduled to convene at 9:30 a.m. on January 26, 2023 by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call.

The tenant submitted that the landlord was served with the Notice of Dispute Resolution Proceeding by registered mail on September 24, 2022 and has provided a Canada Post cash register bearing that date, as well as a Registered Domestic Customer Receipt addressed to the landlord, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*. The tenant also submitted that the tenant's evidentiary material was sent to the landlord by registered mail on September 27, 2022 and has provided a Canada Post cash register receipt bearing that date and a Registered Domestic Customer Receipt addressed to the landlord, and I am satisfied that the tenant has provided all evidence to the landlord.

The landlord has not provided any evidence for this hearing, and all evidence of the tenant has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause dated 31/08/2022 was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The tenant testified that this tenancy began in 2010, and several tenancy agreements have been made over the duration of the tenancy. The latest has been provided for this hearing showing a fixed-term tenancy commencing January 1, 2022 and reverting to a month-to-month tenancy after January 1, 2023. The tenant still resides in the rental unit, but is in the process of moving out. Rent in the amount of \$1,850.00 is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit in the amount of \$800.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is one of 4 rental units in a building, and the landlord does not reside on the property.

The tenant further testified that on August 31, 2022 the landlord posted a One Month Notice to End Tenancy for Cause to the door of the rental unit and a copy has been provided for this hearing. It is dated 31/08/2022 and contains an effective date of vacancy of 10/31/2022. The reason for issuing it states: Tenant is repeatedly late paying rent. The Details of Cause(s) portion states: Tenant has been late on rent consistently for many years. The tenant testified that rent has not been late and has provided copies of e-transfers as evidence of that.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, which can include the reason(s) for issuing it. In this case, the landlord did not attend the hearing, although duly served, and has not provided any evidence. The tenant has provided evidence of having paid rent on time, and I find that the landlord has failed to establish that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Act*, and I cancel it.

Since the tenant has been successful with the application the tenant is also entitled to recover the \$100.00 filing fee from the landlord. I grant a monetary order in favour of the tenant as against the landlord in that amount. The landlord must be served with the

order, which may be filed in the Provincial Court of British Columbia, Small Claims division and enforced as a judgment.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated 31/08/2022 is hereby cancelled.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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: January 26, 2023

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Residential Tenancy Branch