



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Prospero International Realty  
Inc and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **CNC**

### **Introduction**

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the “Act”) for An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1:30 p.m. and ended at 2:03 p.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by property manager SH and building manager AHF. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord acknowledged service of the tenant’s Notice of Dispute Resolution Proceedings package and had no concerns with timely service of documents.

The landlord provided a Canada Post tracking number proving they served their evidence upon the tenant on January 19, 2023. The tracking number is recorded on the cover page of this decision.

### **Issue(s) to be Decided**

Should the notice to end tenancy be upheld or cancelled?

### **Background and Evidence**

The landlord gave the following testimony. On September 9, 2022, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause by attaching a copy of it to the tenant’s door. A witnessed proof of service document was provided as evidence.

The property manager testified that she had spoken with the tenant regarding this notice to end tenancy and advised her that they would give the tenant one last chance. If the tenant or her guests were to conduct themselves contrary to the tenancy agreement, the landlord would serve the tenant with another notice to end tenancy for cause. The property manager testified that she told the tenant she was rescinding the notice to end tenancy issued on September 9<sup>th</sup>. The property manager followed up her conversation with the tenant in a letter dated October 18, 2022 along the same lines although the letter did not specifically state the notice to end tenancy was rescinded.

On January 16, 2023, the landlord served the tenant with a second 1 Month Notice to End Tenancy for Cause by attaching a copy to the tenant's door. The tenant has not yet filed an application to dispute this notice and the merits of that notice are not before me for this hearing.

The landlords testified that they have both had conversations with the tenant who has advised them that she intends on vacating the rental unit and may be willing to sign a mutual agreement to end the tenancy. As of the date of today's hearing, the tenant remains occupying it.

#### Analysis

The tenant is deemed served with the September 9<sup>th</sup> notice to end tenancy on September 12, 2022, the third day after a copy was posted to her door in accordance with sections 88 and 90 of the Act. The tenant filed her application to dispute that notice the same day.

Based on the landlord's undisputed testimony, I find the landlord and tenant have implied their mutual consent to withdraw the notice to end tenancy dated September 9<sup>th</sup>. Consequently, I order that the notice to end tenancy is of no further force or effect and I cancel it.

#### Conclusion

The notice to end tenancy is cancelled and of no further force or effect.

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 27, 2023