



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      CNC, RR, PSF, LRE, LAT, OLC

### **Introduction**

This hearing dealt with the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (Notice) issued by the landlord;
- a reduction in monthly rent;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order suspending or setting conditions on the landlord's right to enter the rental unit;
- authorization to change the locks to the rental unit; and
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The tenant and their assistant (KM) attended the hearing; however, the landlord did not attend. Both attendees were affirmed.

KM testified they served the landlord with the tenant's application for dispute resolution, evidence, and notice of hearing (application package) by registered mail twice, once on October 5, 2022 and on November 8, 2022, and by attaching the application package to the back and front door of the landlord's building in October, November, and December 2022. The tenant submitted the Canada Post tracking number showing proof of service for the October 2022 mailing.

Based on these submissions, I find the landlord was served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Act.

The tenant and KM were provided the opportunity to present their evidence orally and make submissions to me.

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

#### Preliminary and Procedural Matters-

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 is the application to cancel the 1 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request to cancel the 1 Month Notice. The balance of the tenant's application is dismissed, with leave to re-apply.

#### Issue(s) to be Decided

Is the tenant entitled to an order cancelling the landlord's Notice?

#### Background and Evidence

Filed in evidence was a copy of the 1 Month Notice. The Notice was dated September 12, 2022, listing a move-out effective date of October 12, 2022.

The tenant submitted that the landlord served the Notice by posting it on the door, on September 12, 2022.

The tenant filed their application in dispute of the Notice on September 20, 2022.

The causes listed on the 1 Month Notice are:

1. Tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk.

2. Tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property.
3. Tenant has not complied with an order of the director within 30 days of the later of the date the tenant receives the order or the date specified in the order for the tenant to comply with the order.

The tenant denied the causes listed and affirmed that the landlord has cut off power and water to the rental unit. Filed in evidence was a Decision by another arbitrator on the tenant's application for an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons, in which the landlord was ordered to restore power and water.

### Analysis

In a case where a tenant has applied to cancel a Notice to end a tenancy, Rule 7.18 of the Rules states the landlord has the onus of proof.

In this case, the Notice was issued pursuant to section 47(1) and I find that the tenant disputed the Notice within the timeframe required under the Act.

In the absence of, or any evidence from, the landlord to support the reasons listed on the 1 Month Notice, I find there is insufficient evidence to uphold the 1 Month Notice.

As a result of the above, I therefore **ORDER** that the Notice dated September 12, 2022, is **cancelled**.

**I ORDER** the tenancy continues until it may otherwise legally end under the Act.

### Conclusion

The tenant's application seeking cancellation of the landlord's Notice is granted.

The remaining portions of the tenant's application not dealing with the 1 Month Notice was 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: February 06, 2023

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Residential Tenancy Branch