



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC LRE AAT FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) by the tenant to cancel a 1 Month Notice to End Tenancy for Cause dated September 5, 2022 (1 Month Notice), for an order directing the landlord to allow access to the unit or site for the tenant or their guests, for an order to suspend or set conditions on the landlord's right to enter the rental unit, site or property, and to recover the cost of the filing fee.

The tenant, the tenant's advocate, DA (advocate) and the landlord attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to ask questions during the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Neither party raised concerns about the service of documentary evidence and both parties confirmed having the 1 Month Notice before them during the hearing. I find the parties were sufficiently served in accordance with the Act as a result.

### Preliminary and Procedural Matters

Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 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 and the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is **dismissed, with leave to re-apply**.

### Issues to be Decided

- Should the 1 Month Notice be cancelled?
- If yes, is the tenant also entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

Both parties confirmed that there is no written tenancy agreement, which I will address later in this decision. The parties agreed that a verbal tenancy began with the tenant saying May 2018 and the landlord saying April 2018. The parties agreed that monthly rent is currently \$1,670 per month and due on the first day of each month.

The tenant provided a copy of the 1 Month Notice dated September 5, 2022 and is missing a month in the effective vacancy date area of the 1 Month Notice. In addition, the 1 Month Notice is an old form from 2016.

The landlord confirmed that they served the 1 Month Notice on September 15, 2022, which the tenant stated on their application as the date the 1 Month Notice was served upon them. The tenant filed their application to dispute the 1 Month Notice on September 23, 2022.

The tenant states that there was no page 2 of the 1 Month Notice served and the landlord failed to submit page 2 of the 1 Month Notice.

### Analysis

Based on the testimony and evidence, and on a balance of probabilities, I find as follows.

Firstly, I will address the lack of a written tenancy agreement. Section 13(1) of the Act applies and states the following:

#### **Requirements for tenancy agreements**

**13(1) A landlord must** prepare in writing every tenancy agreement entered into on or after January 1, 2004.  
[emphasis added]

Given the above, I caution the landlord to ensure that in the future they have a written tenancy agreement and not breach section 13(1) of the Act.

I will now address the 1 Month Notice. The 1 Month Notice dated September 5, 2022 is from 2016 and is a 2-page form and is not meet the formal requirements of the approved dated November 2021 form (RTB-33) as required by section 52 of the Act. Section 52 of the Act applies and 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, and
- (e) **when given by a landlord, be in the approved form.**  
[emphasis added]

In addition, the month of the effective vacancy date is missing from the 1 Month Notice. Given the above, I find that the landlord issued a 1 Month Notice that was outdated and not in the approved form, pursuant to the formal requirements of section 52 of the Act. Therefore, **I cancel** the 1 Month Notice dated September 5, 2022 as it is not a valid notice.

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

I find it would be impossible to consider any cause listed on the outdated 1 Month Notice as page 2 of the 1 Month Notice was missing. I also find it was not be relevant given that the 1 Month Notice was not on the approved form as indicated above.

As the tenant's application had merit, I grant the tenant the recovery of the \$100 filing fee. **I authorize** the tenant a one-time rent reduction in the amount of **\$100** from March 2023 rent in full satisfaction of the recovery of the cost of the filing fee.

Conclusion

The 1 Month Notice issued by the landlord dated September 5, 2022, is cancelled.

The tenancy shall continue until ended in accordance with the Act.

The landlord has been cautioned as noted above.

The tenant has been authorized to deduct \$100 from March 2023 rent for the filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 9, 2023

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Residential Tenancy Branch