



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

## DECISION

**Dispute Codes**      CNC, FFT

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") to:

- cancel the One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47; and
- recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:40 am in order to enable the landlord to call into the hearing scheduled to start at 9:30 am. The tenant and her husband ("**GK**") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the tenant, GK, and I were the only ones who had called into the hearing.

GK testified he served that the landlord with the notice of dispute resolution package and supporting documentary evidence via registered mail on November 26, 2022. He provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision. I find that the landlord was deemed served with these documents on December 1, 2022, five days after the tenant mailed them, in accordance with sections 88, 89, and 90 of the Act.

Rule of Procedure 6.6 states:

### **6.6 The standard of proof and onus of proof**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenant applies to cancel a Notice to End Tenancy.

As such, the landlord bears the evidentiary burden to establish it is more likely than not that the reason they wish to end the tenancy is valid. The landlord is unable to do this if he does not attend the hearing. Accordingly, I find that the landlord has failed to discharge their evidentiary burden.

I grant the tenant's application and order that the Notice is cancelled and is of no force or effect. The tenancy shall continue.

Pursuant to section 72 of the Act, as the tenant has been successful in the application, she is entitled to recover her filing fee from the landlord, which she may do by deducting \$100 from one future month's rent.

### **Conclusion**

The tenant has been successful in her application. The Notice is cancelled and the tenant may deduct \$100 from one future months rent.

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: March 23, 2023

---

Residential Tenancy Branch