



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      **CNC FFT**

### Introduction

This hearing was convened by conference call as a result of the Applicant's application for dispute resolution ("Application") under the *Residential Tenancy Act* (the "Act"). The Applicant applied for:

- cancellation of a One Month Notice for Cause dated an order for cancellation of a One Month Notice to End Tenancy for Cause dated November 21, 2023 ("1 Month Notice") pursuant to section 47; and
- authorization to recover the filing fee for the Application from the Respondent pursuant to section 72.

The Respondent's agent ("CS") and the Applicant attended the hearing which was held on March 21, 2023 and March 27, 2023. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure* ("RoP"). The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The Applicant stated the Notice of Dispute Resolution Proceeding ("NDRP") on the Respondent by registered mail on November 21, 2022. Applicant provided the Canada Post tracking number for service of the NDRP on the Respondent. CS acknowledged the Respondent received the NDRP. As such, I find the NDRP was served on the Respondent in accordance with the provisions of section 89 of the Act.

The Applicant stated he did not serve the Respondent with any evidence for this proceeding.

CS stated the Respondent served its evidence on the Applicant personally on March 9, 2023. The Applicant acknowledged he received the Respondent's evidence. As such, I find the Respondent's evidence was served on the Applicant in accordance with the provisions of section 88 of the Act.

Preliminary Matter – Jurisdiction of Residential Tenancy Branch

CS stated the 1 Month Notice was served on the sole tenant (“Tenant”) of the rental unit on November 21, 202 by registered mail. The Applicant stated he is the Tenant’s father and he made the Application on behalf of the Tenant. The Applicant admitted he is not a party to the tenancy agreement. The Applicant stated he has been assisting the Tenant to place her in a rehabilitation facility. The Tenant did not attend the hearing and the Applicant did not submit an authorization or other document signed by the Tenant that appointed the Applicant as the Tenant’s agent nor did he submit an order of the Supreme Court of British Columbia in which he is appointed as a committee of the Tenant under the *Patient’s Property Act*.

Section 58(1) of the Act states:

- 58(1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:
- (a) rights, obligations and prohibitions under this Act;
  - (b) rights and obligations under the terms of a tenancy agreement that
    - (i) are required or prohibited under this Act, or
    - (ii) relate to
      - (A) the tenant's use, occupation or maintenance of the rental unit, or
      - (B) the use of common areas or services or facilities.

As the Applicant is not a tenant under the tenancy agreement and was not authorized by the Tenant to act as her agent or appointed as the Tenant’s committee, I find the Applicant did not have the authority to make the Application pursuant to section 58(1) of the Act. As such, I find that I do not have jurisdiction to hear the Application. Based on the foregoing, I dismiss the Application in its entirety without leave to reapply.

Section 55(1) of the Act states:

- 55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The provisions of section 55(1) do not apply unless a tenant makes the application for dispute resolution. In the present case, the Tenant did not make the Application. As such, even though I have dismissed the Application, I find the Respondent is not entitled to an Order of Possession pursuant to section 55(1) of the Act.

### Conclusion

The Application is dismissed in its entirety without leave to reapply. As the Tenant did not make the Application, the Respondent is not entitled to an Order of Possession pursuant to section 55(1) of the Act.

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: April 12, 2023

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Residential Tenancy Branch