Dispute Resolution Services

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Residential Tenancy Branch Ministry of Housing

DECISION

Dispute Codes

Landlord's application:	OPE FFL
Tenant's application:	CNC FFT

Introduction

This dispute relates to an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- 1. Cancel a 1 Month Notice to End Tenancy for End of Employment dated December 28, 2022 (1 Month Notice),
- 2. Filing fee of \$100 for the tenant,
- 3. Order of possession based on 1 Month Notice,
- 4. Filing fee of \$100 for the landlord.

The parties attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions. The parties gave affirmed testimony. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The rental unit address was corrected in both applications pursuant to section 64(3)(c) of the Act.

The email addresses of the parties were confirmed. The decision will be sent by email to both parties.

Issues to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?
- Is either party entitled to the filing fee?

Background and Evidence

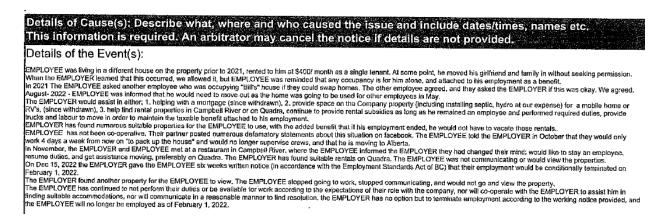
The 1 Month Notice relates to end of employed and was submitted in evidence. The 1 Month Notice is dated December 28, 2022. The tenant indicates that they received the 1 Month Notice on December 28, 2022 attached to their door. The tenants disputed the 1 Month Notice on December 30, 2022.

The landlord listed the following cause on the 1 Month Notice:



Tenant's rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended.

The Details of Dispute section of the 1 Month Notice states:



The landlord confirmed that February 1, 2022 contained a typo and should have read "2023". As such, the parties were advised that 1 Month Notice was issued prematurely, which I will address in further detail below.

<u>Analysis</u>

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

When a tenant disputes a 1 Month Notice on time, which the tenant did in this matter as they filed on December 30, 2022 after receiving it 2 days prior, the onus of proof reverts to the landlord to prove that the 1 Month Notice is valid and should be upheld. If the landlord fails to prove the 1Month Notice is valid, the 1 Month Notice will be cancelled.

The caused listed states as follows:



Tenant's rental unit/site is provided by the employer to the employee to occupy during the term of employment and employment has ended.

I find the cause listed indicates that employment has "ended" which is in the past not the future. In the matter before me, I find the 1 Month Notice was issued prematurely as the notice was issued before the February 1, 2023 end of employment date. Therefore, I find it is not necessary to consider any other details related to the 1 Month Notice as it was issued prematurely before employment ended.

Given the above, I dismiss the landlord's application in full without leave to reapply. The 1 Month Notice is cancelled and is of no force or effect.

The landlord is at liberty to issue a new 1 Month Notice that is not premature in terms of end of employment.

I make the following order pursuant to section 62(3) of the Act:

I ORDER that the tenancy continues until ended in accordance with the Act.

As the tenants' application was successful, I grant the tenant a one-time rent reduction of \$100 from a future month of rent in full satisfaction of the recovery of the filing fee pursuant to sections 62(3) and 72 of the Act.

<u>Conclusion</u>

The tenant's application is successful.

The landlord's application is dismissed.

The 1 Month Notice has been cancelled as it was issued premature before employment ended.

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

The tenant has been granted a one-time rent reduction of \$100 from a future month of rent in full satisfaction of the recovery of the filing fee pursuant to sections 62(3) and 72 of the Act.

This decision will be emailed to both parties as indicated above.

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: May 1, 2023

Residential Tenancy Branch