



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNC, DRI, FFT

### Introduction

This hearing occurred by conference call based on an Application for Dispute Resolution filed by the Tenant March 16, 2023 (the “Application”). The Tenant applied:

- To dispute a One Month Notice to End Tenancy for Cause (the “Notice”)
- To dispute a rent increase that is above the amount allowed by law
- To recover the filing fee

M.N. appeared at the hearing for the Tenant. The Landlord and Co-landlord (the “Landlords”) appeared at the hearing.

I heard the dispute of the Notice and dismissed the request to dispute a rent increase with leave to re-apply under rule 2.3 of the Rules of Procedure (the “Rules”).

The Tenant provided evidence for the hearing. The Landlord did not provide evidence. The Landlord confirmed receipt of the hearing package and Tenant’s evidence.

The parties were given a chance to present relevant evidence and submissions. I have considered all evidence provided. I have only referred to the evidence I find relevant in this decision.

### Issues to be Decided

1. Should the Notice be cancelled?
2. Is the Tenant entitled to recover the filing fee?

### Background and Evidence

The parties agreed there is a written tenancy agreement between them.

The Tenant provided a copy of the Notice but it is not viewable on the RTB system. The Landlords said the grounds for the Notice are:

1. Repeated late payment of rent
2. The Tenant has not paid a pet damage deposit within 30 days of the date it was required to be paid under the tenancy agreement

The Landlords could not remember when the Tenant had paid rent late.

The Landlords said they did not ask the Tenant to pay a pet damage deposit because they do not want dogs in the rental unit.

### Analysis

The Notice was issued under the following sections of the *Act*:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...

- (a) the tenant does not pay the...pet damage deposit within 30 days of the date **it is required to be paid under the tenancy agreement;**
- (b) the tenant is repeatedly late paying rent...

The Landlords did not ask for a pet damage deposit or require one under the tenancy agreement so subsection (a) above does not apply and is not a basis to end the tenancy.

The Landlord must prove the grounds for the Notice under rule 6.6 of the Rules. RTB Policy Guideline 38 explains the ground of repeated late payment of rent. The Landlords could not tell me when the Tenant had paid rent late. There is no documentary evidence before me of when the Tenant paid rent late. The Landlord has failed to prove they had grounds to issue the Notice based on subsection (b) above.

I am not satisfied the Landlord had grounds to issue the Notice and cancel the Notice. The tenancy will continue until otherwise ended in accordance with the *Act*.

Given the Tenant has been successful in the Application, they are entitled to recover the \$100.00 filing fee under section 72(1) of the *Act* and can deduct \$100.00 from their next rent payment under section 72(2) of the *Act*.

### Conclusion

The Notice is cancelled.

The Tenant can deduct \$100.00 from their next rent payment.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 18, 2023

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Residential Tenancy Branch