



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding CENTRAL CITY HOUSING  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

Tenant: CNC-MT  
Landlord: OPC, FFL

### **Introduction**

On February 6, 2023, the Tenant filed their Application at the Residential Tenancy Branch to dispute the One-Month Notice to End Tenancy for Cause (the “One-Month Notice”). They requested more time in which to file their Application, past the 10-day time limit after receiving the One-Month Notice on January 23, 2023.

On February 24, 2023 the Landlord applied for an order of possession of the rental unit, and reimbursement of the Application filing fee. With the Tenant’s Application already in place, the Landlord’s Application was crossed to that of the Tenant concerning the same tenancy.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 5, 2023.

### **Preliminary Matter – Tenant’s Application to cancel the One-Month Notice**

At the start of the hearing, the Tenant stated that they did not provide a copy of the Notice of Dispute Resolution Proceeding to the Landlord. This is the key document about the hearing that is generated when a party applies for dispute resolution. The Tenant had three days from when they received that document from the Residential Tenancy Branch on February 13, 2023 to serve that to the Landlord. The Tenant stated they were unaware of this because they had an advocate make the Application for them.

The Landlord confirmed they did not receive a copy of the document, nor evidence from the Tenant, for this matter.

The *Act* s. 59(3) sets the duty for an applicant to provide the Notice of Dispute Resolution Proceeding for their application to the respondent. I find the Tenant did not serve the Notice of Dispute Resolution Proceeding for their February 6 Application. The *Act* s. 89 gives the rules of service for an application for dispute resolution. Basically, this is by leaving a copy with the person or their agent or sending a copy via registered mail. The *Residential Tenancy Branch Rules of Procedure* give specific information on a party serving their evidence to the other party.

For this reason, I dismiss the Tenant's February 6 Application. The remaining issues from the Landlord's Application are listed below.

#### Preliminary Matter – Landlord's Notice of Dispute Resolution Proceeding

The Landlord stated they provided their Notice of Dispute Resolution Proceeding, as well as their evidence, to the Tenant by attaching it to the door of the rental unit and providing a copy in the Tenant's mailbox. This included the 4-page One-Month Notice that is in the Landlord's evidence, with an additional typewritten page giving more evidence.

I find that, more likely than not that the Tenant knew about this hearing from the Landlord's Notice of Dispute Resolution Proceeding. That enabled the Tenant to call in correctly for the scheduled hearing.

The Tenant could not identify the four-page One-Month Notice that the Landlord provided in their evidence. I analyze this piece of the Landlord's evidence below.

#### Issues to be Decided

Is the Landlord entitled to an Order of Possession of the rental unit, as per s. 55 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, as per s. 72 of the *Act*?

### Background and Evidence

In the Landlord's evidence is a copy of the One-Month Notice they served to the Tenant on January 23, 2023, with the effective end-of-tenancy date being February 28, 2023. The Landlord signed the document and listed the following reasons on page 2:

- Tenant seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- Tenant put the landlord's property at significant risk
- Tenant engaged in illegal activity that has, or is likely to damage the landlord's property
- security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

The Landlord gave details on page 2 of the document. This is two separate paragraphs, one setting out the Tenant's long-term unregistered guests being a problem, and the second setting out the Landlord's belief that the Tenant took keys from the janitor. On this latter point, the Tenant claimed their copy of the One-Month Notice did not contain this information.

The Landlord included a second page of details, labeled "[Tenant name] R.T.B. PAGE #2, DETAILS of CAUSE(S) cont." On clarification with the Tenant in the hearing, the Tenant stated they did not have this document listing separate details, including the Tenant's infraction involving their health and an ambulance visit, the condition of the rental unit on inspection, the rent arrears, and the Tenant's "total disregard for the Tenant Responsibilities as laid out in the Residential Tenancy Agreement."

In the hearing, the Landlord stated they provided a hearing package to the Tenant, along with letters attached. These are copies of letters the Landlord had previously issued to the Tenant, not provided to the Residential Tenancy Branch for this hearing.

The Tenant provided a copy of the One-Month Notice when they applied to the Residential Tenancy Branch. This bears the same dates as the Landlord's copy, and bears a similar signature of the Landlord, though markedly different in height and width.

The second page of the document listed the following reasons;

- Tenant seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- Tenant put the landlord's property at significant risk
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so
- security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

In the description, the details are provided in one single 13-line paragraph. This lists the details as provided on the Landlord's copy second page. In the hearing, the Tenant identified to the best of their ability that this was the end-of-tenancy notice they received from the Landlord.

In the hearing, the Tenant stated their disagreement on several of the points made by the Landlord. When I asked specifically about the incident involving the janitor's keys, the Tenant stated that information was not on the copy of the eviction notice they received from the Landlord.

The Landlord set out that they had an agreement in place with the Tenant for payment of rent amounts owing. The Landlord also reviewed the other reason listed on the One-Month Notice involving the Tenant's illness requiring an ambulance call.

The Landlord stated directly in the hearing that it was not possible that two copies of the One-Month Notice existed, and they were not able to speak to it, not having received a copy in evidence from the Tenant.

### Analysis

Based on the Tenant's statement in the hearing, I find the Landlord did not provide a copy of the document to the Tenant, the one they uploaded to the Residential Tenancy Branch for this hearing. This is the 4-page document they submit was the document they served to the Tenant on January 23, 2023.

The Tenant had no idea about the portion on the notice concerning the janitor and the keys that the Tenant allegedly stole. This is a distinct detail that the Tenant was quite clear they were not able to identify.

I find the Landlord did not provide a copy of the One-Month Notice in their evidence to the Tenant as required.

Though not properly provided to the Landlord as evidence for this hearing, the Tenant's copy of the One-Month Notice, provided to the Residential Tenancy Branch when they submitted the Application on February 6, 2023, bears significant differences. This calls the veracity of the document the Landlord issued to the Tenant into question.

I am left with two copies of the One-Month Notice that neither party had seen from the other prior to this hearing. I have set out the difference in detail in the section above.

As set out above, I dismissed the Tenant's Application. That means that any evidence the Tenant provided was not for my consideration; however, I make an exception where the Tenant intended to rely on the One-Month Notice they received as evidence in this matter. Given the differing traits of the document submitted by each of the parties in this hearing, I cannot verify that the document is correct, containing the correct details as required.

More importantly, the documents differ on the reasons for ending the tenancy. One incident involving the janitor and their keys does not appear to be a reason the Landlord placed in the copy they provided.

With the present inconsistencies, I cannot verify the correctness of any detail the Landlord provided on the form they served to the Tenant to end the tenancy. The Landlord has not met the burden of proof to show the One-Month Notice is valid; therefore, I cancel any One-Month Notice issued by the Landlord. It is of no legal effect and the tenancy shall continue.

With the One-Month Notice cancelled, the tenancy will continue and there is no order of possession. In line with this, I grant no compensation to the Landlord for the filing fee of this hearing.

Conclusion

For the above reasons regarding their late Application, I dismiss all parts of the Tenant's Application, without leave to reapply.

I dismiss the Landlord's Application for the reasons set out above, without leave to reapply.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: June 5, 2023

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Residential Tenancy Branch