

DECISION

This hearing was convened in response to an application by the landlord for an order of possession subsequent to a One (1) Month Notice to end Tenancy for Cause dated February 01, 2009 with an effective date of February 28, 2009. The landlord claims he served the Notice January 30, 2009. The landlord did not forward Page 2 of the Notice to this file (which stipulates the Reasons). However, the landlord claims that Page 2 was indeed given to the tenant.

The tenant claims that he never received Page 2. The tenant testified that when he only received the top page of the Notice to End he asked the landlord as to the reason for the Notice, to which the landlord stated it was for the tenant having too much, "junk", in the back yard: an old car, three (3) motorcycles, a freezer and other large items. The landlord testified that the numerous items in the back yard are a major issue as well, as is that the tenant has not paid rent for March and April 2009; but, that the stated reasons in the Notice to End were for, "smoking in the rental unit and for playing loud music".

The tenant claims he was advised by a representative of the Residential Tenancy Branch that without page 2 he could not file to dispute the One Month Notice to End, and that he should seek this from the landlord.

The reason for cause, according to the landlord, is for smoking in the rental unit and playing loud music. The tenant denies he smokes in the rental unit, and only does so outside. The tenant further stated that the only audio device he owns is small computer speakers, which he claims, "are not loud".

Despite the fact that the tenant did not file in time to dispute the Notice, I find that the landlord has failed to prove that he served the tenant with a valid One Month Notice to end Tenancy for Cause, and on this basis I dismiss the landlord's application.

Dated April 14, 2009.