



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

Dispute codes: CNC.

### **Introduction**

This was an application by the tenants to cancel a Notice to End Tenancy for cause. The hearing was conducted by conference call. The tenants (hereinafter referred to as “Mr. H or Ms. H when required”) and the landlords (hereinafter referred to as “Mr. S or Ms. S when required”) participated in the hearing. A potential witness for the landlord was also present on the conference call at the commencement of the hearing. The landlord advised me that the witness was there as a character witness for the landlords.

### **Background and evidence**

The tenants have applied to cancel or set aside a one month Notice to End Tenancy for cause. The Notice was dated October 27 and requires the tenants to move out of the rental unit by November 30, 2008. The cause alleged is that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord and that the tenants have seriously jeopardized the health or safety or lawful right of another occupant or the landlord. I heard first from the landlord as to the grounds for giving the Notice.

The landlords purchased the rental property, a house several months ago. The tenants occupy the basement of the house and the landlords live upstairs. The cause alleged by the landlords, briefly stated is that the tenants, by their demeanour and the tenor of their communications have disturbed the landlord and his wife and has affected his performance at school and at his job. According to the landlord his three year old daughter has also been disturbed and affected by the tenants’ behaviour. The landlord submitted a letter from his wife’s physician dated November 10, 2008. In the letter the doctor commented that when she saw Ms. S on November 7, 2008 she alleged that: “she has a new tenant in her house who has been abusive and threatening to her and

her family. As she is concerned about confrontations with him, she avoids staying in her backyard on her own and does not even feel safe in her own home. She has troubles with her sleep because of her constant worry and fear for her family's safety. She is tense and has lost 10 pounds since September because she is not able to eat. Ms. S's health has been compromised by the current situation in her home."

Ms. S testified that Mr. H came to her door on the afternoon or evening in October. He gave her a letter. She said that he acted aggressively towards her; his chest was puffed out and he behaved belligerently. She said that his letter upset her and has caused her to be fearful for her safety and that of her family. The landlord submitted a copy of the letter. The letter dealt with issues concerning the tenants' cat, a proposed new tenancy agreement and a proposed rent increase. Ms. S. referred to one passage in particular wherein the tenant commented as to the likely outcome if the landlords did not moderate their position; he predicted: "- a poor relationship with your tenants and a sense of ill ease in your new home and neighborhood."

The other significant matter that the landlords focused upon was the tenants' pet cats. The written tenancy agreement between the tenants and their former landlord contained a prohibition as to pets, however the tenants told the landlord that their former landlord had agreed to allow them to have two cats. When the landlord acquired the rental property the tenants had two cats. The landlord wanted to create a new tenancy agreement with the tenants. The proposed agreement stated that the tenants were allowed to keep a maximum of two cats, but no other animals were permitted; it called for a pet damage deposit of \$550.00. One of the tenants' two cats was killed after the landlord purchased the property. Another draft version of the proposed agreement stated: "The tenants are allowed to keep the current cat (name) and one additional cat. No other animals are permitted to be kept by tenants."

The landlord then asked the tenants to show him the former landlord's written consent to allow them to have pets. After some delay the tenants provided a copy of a letter date August 20m, 2007 wherein the former landlord referred to the two cats and said:

“(Cat name) and (Cat name) can stay; please do not add to your family any other four legged creatures”.

The tenants have obtained a new cat to replace the one that was killed. The landlord alleged that the tenants are in breach of the tenancy agreement and have unreasonably disturbed the landlord, by having the cats and by their conduct in dealing and negotiating with the landlord about a pet clause in a proposed tenancy agreement. The landlord contended that the tenants had deliberately misled him about the terms of their agreement with the former landlord. According to him the tenants were limited to having two specific named cats, but not two cats generally. The tenants do not agree with the landlord; it is their position that they are entitled to have two cats, not limited to specific cats.

#### Analysis and conclusion

The fact that the landlord and the tenants have not been able to agree as to certain terms of a proposed tenancy agreement has resulted in a series of verbal and written communications between them. Clearly the parties have become polarized over some of the outstanding issues between them. I am unable to find that the conduct of the tenants in their communications with the landlord constitutes a significant interference or an unreasonable disturbance of the landlord. The tenants necessarily must communicate their position on the issues between them to the landlord. The fact that they disagree on issues and express that disagreement does not constitute grounds to end the tenancy. As the tenants have pointed out to the landlord, they are not obliged to enter into a new tenancy agreement, but nonetheless they embarked upon a process to arrive at a new agreement with the landlord. The landlord and particularly his wife appear to have had an extreme reaction to the tenant's perceived demeanour and to his choice of language in a letter, but viewed objectively I find that the tenants' behaviour does not constitute a significant interference or unreasonable disturbance of the landlord. Nor do I find that they have seriously jeopardized the health or safety or lawful right of the landlord or his family. I therefore order that the 1 month Notice to End Tenancy dated October 27, 2008 be, and is hereby cancelled. I make no finding

concerning whether or not the tenants are in breach of the terms of their tenancy agreement due to the presence of two cats in the rental unit.

The Notice to end tenancy is cancelled. The tenants did not request repayment of the filing fee for this application and I make no order with respect to it.

Dated November 25, 2008.