



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking to cancel a one month Notice to End Tenancy for cause, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues(s) to be Decided

Is the one month Notice to End Tenancy valid or should it be cancelled?

### Background and Evidence

This tenancy began in April of 2005, with the Tenants entering into a written tenancy agreement with the prior owner of the park. Under the Act and common law, when the new owner, the current Landlord, purchased the park they were assigned all prior tenancy agreements.

Paragraph 7 of the tenancy agreement holds that,

"The Landlord has approved the following pet(s): 1 – Spunky, collie/terrier x (small). As a material term of this Agreement, the Tenant agrees to adhere to all park rules regarding pets and agrees to obtain the Landlord's approval in writing before bringing any pet into the park..."

The Agent for the Landlord testified that the Tenants now have three dogs at their unit site, the third of which is a Rottweiler. The Agent acknowledged that the Tenants had prior consent for one dog.

The Agent testified that in August of 2010, when the Landlord became aware of the third dog, they had an oral conversation with the Tenants regarding the dog. The Agent testified that the Tenants had refused to sign a Pet Agreement which the new Landlord had requested all renters in the park to sign. The Agent also testified that the written tenancy agreement requires the Tenants to adhere to the park rules, although the Agent testified that the Pet Agreement had not become one of the park rules.

The Agent further testified that all renters in the park have to request permission for having a pet.

The Agent testified that following the oral discussion with the Tenants in August of 2010, that a warning letter had been sent to the Tenants on September 21, 2010, giving them until September 30, to remove the dog or they would be considered to be in material breach of the tenancy agreement. The Landlord issued a second such warning letter, entitled "final notice", on October 7, 2010, giving the Tenants until October 22, 2010, to remove the dog or they would be considered to be in breach of the tenancy agreement and the Landlord would issue a Notice to End Tenancy.

On October 26, 2010, the Landlord issued the Tenants a one month Notice to End Tenancy indicating an effective date of November 27, 2010. I note that under the Act the Notice to End Tenancy automatically corrects to November 30, 2010, being the effective date of the Notice.

The Agent for the Landlord testified that one other renter had a Rottweiler, although that renter has been dealt with by the Landlord.

The Tenants testified that that they were sent a copy of the Pet Agreement in April of 2008, and they refused to sign it because they thought it was adverse to renters, including themselves.

The Tenants testified that the pet rules had not been enforced earlier and that now the Landlord wanted to follow the rules.

The Tenants testified that their new dog is not dangerous and there have been no complaints about the Rottweiler dog. The Tenants testified that the dog was born in the park to another renter. They testified they did not bring the dog into the park, as it was

born there. They testified that their manufactured home has been listed for sale and that they will be moving when it sells. Until then, the Tenants want to keep the dog.

The Tenants initially testified that they did not know why they did not ask for permission as required in their tenancy agreement, and then testified they did not ask for permission as there was another Rottweiler in the park.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Notice to End Tenancy is valid and should not be cancelled. I find that the Tenants have breached a material term of their tenancy agreement and have failed to rectify it within a reasonable amount of time.

Although the Landlord may not have enforced the park rules pertaining to pets, it should have become clear to the Tenants once they received the two written warning letter that the Landlord was going to start enforcing the rules once again.

In this case, the Tenants had not sought the prior written approval for two pets since the start of their tenancy. The Landlord gave the Tenants a reasonable amount of time to comply for the Rottweiler, and the Tenants failed to rectify the situation.

Therefore, I find the Tenants Application must be dismissed without leave to reapply. The Notice to End Tenancy is valid and remains in full force and effect, and the Tenants must vacate the rental site in accordance with the Notice.

I note that when I dismissed the Tenants' claim, the Landlord did not orally request an order of possession as allowed under section 48 of the Act. The Landlord is still at liberty to make an Application for Dispute Resolution for an order of possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9 of the *Manufactured Home Park Tenancy Act*.

Dated: November 29, 2010.

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Dispute Resolution Officer