



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, OLC, FF

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause, an order for the landlord to comply with the Act and recovery of the filing fee. The tenants participated in the conference call hearing but the landlord did not. The tenants presented evidence that the landlord was served with the application for dispute resolution and notice of hearing. I found that the landlord had been properly served with notice of the tenant's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Issues to be Decided

Is the tenant entitled to any of the above under the Act.

### Summary of Background and Evidence

This 1 year, fixed term tenancy started November 4, 2010 with monthly rent of \$1200.00, the tenant paid a security deposit of \$600.00. On November 21, 2010 the landlord served the tenant with a notice to end tenancy for cause.

The tenants testified that the landlord give the notice to the tenants because of their dogs barking. At the time the notice was given to the tenants the landlord was having the basement renovated and the dogs were barking at the builder when he came into the house. After the dogs became familiar with the builder they stopped barking at him.

The landlord on December 2, 2010 gave the tenants a letter stating that she was revoking the notice and re-instating the tenancy as the landlord now understood why the dogs had been barking.

It should noted that the 1 month notice that the landlord provided the tenants is not on the approved form and is therefore invalid.



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Page: 2

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## Analysis

### Residential Policy Guideline **18 Use of Forms**

#### **Notice To End Tenancy**

If the landlord has served the old, single sheet Termination Notice, and seeks an order of possession based upon that notice, the arbitrator will deny the application<sup>2</sup> and require the landlord to serve a Notice To End a Tenancy in the form required by the Legislation and thereafter reapply for the order. If a tenant applies to set aside this old version of the notice<sup>3</sup>, that application will be granted.

A form not approved by the Director is not invalid if the form used still contains the required information and is not constructed with the intention of misleading anyone. As a result, it is advisable to apply to an arbitrator to dispute the notice, so that the validity of the notice can be determined.

Based on the documentary evidence and testimony I find that the tenants were not properly served with a notice to end tenancy for cause.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The tenants are entitled to recovery of the \$50.00 filing fee.

## Conclusion

I therefore allow the tenant's application and set aside the landlord's notice to end tenancy for cause dated November 17, 2010 with the result that the tenancy continues uninterrupted.

The tenant may deduct \$50.00 from future rent owed to the landlord for recover of the filing fee paid to bring their application.

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

Dated: December 17, 2010

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Dispute Resolution Officer