



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, O

### Introduction

This hearing dealt with the tenants' application to cancel a 1 Month Notice to End Tenancy for Cause. Both parties appeared at the hearing and were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

On a procedural note, I amended the tenants' application to reflect that this application falls under the jurisdiction of the Residential Tenancy Act since the tenants rent a manufactured home and use of the manufactured home site from the landlord. The tenants had also identified the manufactured home park owner/manager as one of their landlords; however, I have excluded the park owner/manager from the style of cause as the park owner/manager is not their landlord.

### Issues(s) to be Decided

Should the 1 Month Notice to End Tenancy for Cause be cancelled or upheld?

### Background and Evidence

The parties provided the following undisputed testimony. The tenancy commenced September 1, 2010 for a monthly rent of \$750.00 due on the 1<sup>st</sup> day of every month. The tenants paid a \$750.00 security deposit. The tenants were personally served with a 1 Month Notice to End Tenancy for Cause (the Notice) on November 1, 2010. The Notice indicates two reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and,
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Upon enquiry, the landlord stated that the reason for ending the tenancy was that the tenants have a dog living in their unit which violates the park rules and the tenancy agreement.

The tenants acknowledged that they have a dog living with them but that they were not informed of a no pet rule until after they signed the tenancy agreement and paid their rent and security deposit.

Both parties were in agreement that the landlord had not issued a written warning to the tenants with respect to removing the dog.

The landlord also raised the issue that the tenants have been repeatedly late paying rent and have not paid rent for December 2010. The landlord was informed of his right to serve a 10 Day Notice to End Tenancy for Unpaid Rent to the tenants; however, the landlord was also cautioned that a security deposit may not exceed one-half of a month's rent and the tenants are entitled to recover the overpaid portion of the security deposit.

Neither party provided a copy of the Notice, the tenancy agreement, or the park rules as evidence for my consideration.

### Analysis

Section 47 of the Act provides that a landlord may end the tenancy by issuing a 1 Month Notice to End Tenancy for Cause for several reasons including repeated late payment

of rent, significant interference or unreasonable disturbance of other occupants or the landlord, and a breach of a material term of the tenancy agreement.

As the landlord did not indicate on the Notice that the reason for ending the tenancy was repeated late payment of rent I do not consider that reason further.

As I was not provided sufficient evidence that the tenants have caused significant interference or unreasonable disturbance of other occupants or the landlord I do not end the tenancy for that reason.

Finally, in order to end the tenancy for a breach of a material term, section 47 of the Act provides that the landlord must first issue a written notice to the tenants informing the tenants that they are in breach of a specific term of the tenancy agreement and provide the tenants with a reasonable amount of time to correct the breach.

In this case, the landlord did not issue a written warning notice or letter to the tenants advising them of the breach prior to issuing the tenants with the 1 Month Notice. Accordingly, I find the landlord did not meet the requirements of section 47 with respect to ending the tenancy for a breach of a material term. Therefore, the Notice to End Tenancy for Cause is cancelled with the effect that this tenancy continues.

As I was not provided with a copy of the tenancy agreement, any addendum to the tenancy agreement, or park rules, I make no findings as to whether the tenants have in fact breached a material term. Rather, I have set aside the Notice to End Tenancy based upon the landlord's failure to issue a written warning notice to the tenants prior to issuing the 1 Month Notice to End Tenancy.

Conclusion

The 1 Month Notice to End Tenancy has been cancelled and this tenancy continues.

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 07, 2010.

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Dispute Resolution Officer