



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This matter dealt with an application by the Tenants to cancel a One Month Notice to End Tenancy for Cause and to recover the filing fee for this proceeding.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This fixed term tenancy started on July 1, 2010 and expires on June 30, 2011. Rent is \$1,200.00 per month plus utilities. The Landlord served the Tenants with a One Month Notice to End Tenancy for Cause which alleged that the Tenants were repeatedly late paying rent. Neither party provided a copy of the Notice as evidence at the hearing.

### Analysis

Section 47(3) of the Act says that a One Month Notice to End Tenancy for Cause must comply with s. 52 of the Act. Section 52 of the Act says that in order to be effective, a Notice to End Tenancy must contain specific information (that is listed) and when given by a Landlord, it must be in the approved form.

In this matter, the Landlord has the burden of proof and must show (on a balance of probabilities) that she served the Tenants with an effective or enforceable Notice to End Tenancy and that there are grounds under s. 47 of the Act to end the tenancy. Consequently, it is up to the Landlord to provide a copy of the One Month Notice to End Tenancy for Cause that she served on the Tenants as evidence at the hearing. In the absence of a copy of the One Month Notice to End Tenancy for Cause served on the Tenants, I find that there is insufficient evidence to conclude that the Tenants were served with an effective Notice and as a result, the Tenant's application is granted and the Notice is cancelled.

The Landlord will have to re-serve the Tenants with a new One Month Notice to End Tenancy for Cause if she believes she has grounds to end the tenancy.



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## Conclusion

The Tenants' application is granted. Consequently, I find that the Tenants are entitled to recover the \$50.00 filing fee for this proceeding from the Landlord and I order pursuant to s. 72 of the Act that they may deduct this amount from their next rent payment when it is due and payable to the Landlord.

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 15, 2010.

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Dispute Resolution Officer