



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution to cancel a 1 Month Notice to End Tenancy for Cause.

The tenant and the landlord's agent appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form, and to 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.

### Issue(s) to be Decided

Is the tenant entitled to an Order cancelling the 1 Month Notice to End Tenancy?

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

The month to month tenancy began on November 1, 2007, monthly rent is \$941.00, \$545.00 of which is paid by the tenants, and a security deposit of \$471.00 was paid by the tenants on October 24, 2007.

The landlord's agent gave affirmed testimony and supplied evidence that the tenants were served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on June 10, 2011, via registered mail. The cause listed on the Notice stated the tenants were repeatedly late in paying rent and contained an effective move out date of July 31, 2011.

The agent stated that the tenants had made late payments of rent in November 2010, and February, March and June 2011, and have not paid rent in July 2011. The agent

stated that the tenants had been issued breach letters concerning the late payments, as well as several 10 Day Notices to End Tenancy for unpaid rent. These documents were submitted into evidence by the landlord.

During the hearing, the landlord's agent made an oral request for an Order of Possession, for the effective date of the Notice.

In response, the tenant confirmed the landlord's testimony, that the rent payments were late and that he has not paid rent for July; however the tenant stated that his problems were due to his employment insurance having expired and waiting for welfare to cover the remaining portion of the rent.

Further the tenant stated he was in the process of moving out and should be gone by July 10, 2011.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 47 of the Residential Tenancy Act (the "Act") provides that a landlord may issue a Notice to End Tenancy for Cause where the tenant is repeatedly late paying rent.

Residential Tenancy Policy Guideline #38 states that three late payments are the minimum number sufficient to justify a notice under these provisions. The landlord established, through testimony, the evidence and the tenant's agreement, that the tenants have made late payments of rent in five of the previous nine months.

I therefore find the Landlord submitted sufficient evidence to establish that the tenants were repeatedly late in paying rent and I dismiss the tenants' application to cancel the Notice, without leave to reapply.

As I have dismissed the tenants' application, I grant the landlord's verbal request for an Order of Possession effective at 1:00 p.m. on July 31, 2011, the effective date of the Notice. I have enclosed Orders of Possession to serve upon the tenants in the landlord's decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court should enforcement become necessary.

### Conclusion

The tenants' application is dismissed, without leave to reapply.

The landlord is granted an order of possession.

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: July 07, 2011.

---

Residential Tenancy Branch