



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNC; FF

### **Introduction**

This hearing dealt with the Tenant's application cancel a *One Month Notice to End Tenancy for Cause* issued September 11, 2012 (the Notice); and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony and had an opportunity to be heard and respond to other party's submissions.

It was established that the Landlord received the Notice of Hearing documents by registered mail sent September 13, 2012. The Tenants provided a copy of the registered mail receipt in evidence.

### **Preliminary Matter**

At the outset of the Hearing, the Tenants advised that they provided a copy of the Notice to the Residential Tenancy Branch by fax on September 14, 2012, however there was no copy of the Notice on the file. I explained to the parties that it is not possible for me to cancel the Notice, or to uphold it, without confirming that it is a valid notice to end tenancy pursuant to the provisions of Section 52 of the Act.

The Landlord stated that he issued the notice to end the tenancy on the Residential Tenancy Branch form. He stated that the reason given on the Notice was that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

As the Tenants did not have access to a fax machine, I allowed the Landlord to fax me a copy of the Notice. On receipt of the Notice, I am satisfied that the Notice conforms with the requirements of the Act.

**Issue to be Decided**

Should the Notice issued September 11, 2012, be cancelled?

**Background and Evidence**

The rental unit is the basement suite of a house. The Landlord and his family occupy the upper suite of the house. The Tenants moved into the rental unit in November, 2010. The Landlord inherited the tenancy in January, 2012, when he purchased the house from the Tenants' previous landlord. There is no written tenancy agreement.

The Landlord stated that he starts work at 4:00 a.m. and therefore has to leave his house early in the morning. He stated that the Tenants were parking their car behind his car, effectively blocking him in, and that he had asked them several times not to park behind his car or block the garage doors. He stated that there was parking on the street. He stated that on September 6, 2012, at 9:30 p.m. (while he was sleeping) his wife had to ask the Tenants to move their car so he could get out the next morning. He stated that the Tenants were rude to his wife.

The Landlord testified that on September 9, 2012, the Tenant blocked his car again. He stated that he went to speak to the Tenants, who were in the company of some relatives. The Landlord stated that the conversation got heated and that one of the Tenants' male relatives became verbally abusive and very confrontational, coming close to the Landlord. The Landlord stated that he felt afraid and went into his house and called the police. The Landlord stated that the police told him that it was a residential tenancy matter, so he issued the Notice. The Landlord stated that the Tenants have not paid rent for the month of October, 2012.

The Landlord asked for an Order of Possession.

The Tenants testified that their tenancy agreement included a parking spot on the right hand side of the driveway, in front of the garage. They stated that the Landlord has not provided them with written notice that he was not going to allow them to park in the driveway anymore.

The Tenants testified that on the evening of September 9, 2012, it was the Landlord who was abusive, swearing at them and calling them names.

The Tenants testified that they paid rent to the Landlord for the month of October, 2012, in cash.

### **Analysis**

I explained to both parties that this Hearing was convened for the Tenants' application only and that I would not be making any findings with respect to whether or not the Tenants had paid rent for the month of October, 2012, or whether or not their oral tenancy agreement included a parking spot in the driveway.

It is clear that an altercation happened between the parties on September 9, 2012, but I find this incident insufficient reason to end the tenancy. Each party testified that the other was abusive. There was insufficient evidence that the Tenants or their invited guest were the instigators. Therefore, I grant the Tenants' application to cancel the Notice to End Tenancy. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenants are cautioned that a tenancy can end because of the actions of a person that they permit on the rental property. The parties are advised to treat each other with respect.

The Tenants have been successful in their application and I find that they are entitled to recover the cost of the \$50.00 filing fee from the Landlord. Pursuant to the provisions of Section 72 of the Act, the Tenants may deduct \$50.00 from rent due to the Landlord.

### **Conclusion**

The Notice to End Tenancy issued September 11, 2012, is **cancelled**. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

The Tenants may deduct **\$50.00**, the cost of the filing fee, from future rent due 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: October 17, 2012.

---

Residential Tenancy Branch