



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy. Both parties were represented at the conference call hearing.

### Issue to be Decided

Should the notice to end tenancy be set aside?

### Background and Evidence

The parties agreed that on March 23, 2013, the landlord served on the tenants a one month notice to end tenancy for cause (the "Notice"). The Notice states that the rental unit must be vacated to comply with a government order.

The landlord provided a copy of a letter which she had received from a bylaw enforcement officer in which the officer stated that the residential property was not zoned to allow a secondary suite. The landlord testified that she spoke with the officer who told her to arrange for the tenants to move out.

### Analysis

In order to establish grounds to end this tenancy for the reason listed on the Notice, the landlord has the burden of proving that she has been *ordered* to ensure the rental unit is vacant. I am not satisfied that such an order has been made at this point, although one may be forthcoming.

I find that the landlord had not yet been served with an enforceable order at the time she issued the Notice and I find that the Notice cannot therefore be effective to end the tenancy. I order that the Notice be set aside and of no force or effect. The tenancy will therefore continue.

As the tenants have been successful in their application, I find that they should recover the \$50.00 filing fee. The tenants may deduct \$50.00 from a future rental payment.

Conclusion

The Notice is set aside and the tenants may deduct \$50.00 from a future rental payment.

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: May 01, 2013

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Residential Tenancy Branch

