



# 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 under the Residential Tenancy Act (the "Act"), seeking to cancel a 1 Month Notice to End Tenancy for Cause (the "Notice") issued by the landlord and for recovery of the filing fee.

The tenants and the landlord appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issue regarding the service of the documentary evidence or the application; however, during the hearing the tenant said he had not received the landlord's documentary evidence nor did he receive a notice from Canada Post that he had registered mail ready to be collected.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Have the tenants established an entitlement to have the Notice to End Tenancy for Cause cancelled and to recover the filing fee?

### Background and Evidence

I heard undisputed evidence that this tenancy began June 1, 2010 and that monthly rent is \$1900 . The tenants submitted that they paid a security deposit of \$950 and a pet damage deposit of \$950 at the beginning of the tenancy.

The landlord said he was not sure if the deposits were paid as he was not involved with this property at the beginning of the tenancy. I note that the landlord is the son-in-law of the owner and now has a power of attorney over the owner's affairs.

Pursuant to the Dispute Resolution Rules of Procedure, the landlord proceeded first in the hearing and testified in support of issuing the tenants a 1 Month Notice to End Tenancy for Cause. The Notice was dated July 26, 2013, was delivered by posting it on the tenants' door on that date, listing an effective end of tenancy on August 31, 2013.

The causes listed on the Notice alleged that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlords' relevant evidence included email communication between the parties and copies of photographs of the rental unit.

In support of their Notice, the landlord submitted that the tenants have subverted their attempts to sell the home by his actions. Specifically the landlord said that the tenant has removed the "For Sale" sign from the front yard and not cooperated in allowing weekend showings or open houses.

The landlord said that the tenants were given a written warning that if the sign was removed, then he would issue them a 1 Month Notice to end the tenancy.

The landlord also submitted that the tenants have threatened to leave their pit bull dog in the house during showings of the house.

The landlord also stated that he was informed by the realtor that the state of the home interfered with the sale of the home.

The landlord conceded that there is an accepted offer on the home, with conditions which have not been lifted as of the date of the hearing.

In response, the tenants submitted that they have been very cooperative with the landlord and his real estate agent, as they have previously arranged with the agent to allow showings two nights a week. The tenants submitted that the weekend showings would be excessive as that would be 4 days a week that they would have the rental unit open and available for people coming through.

The tenants submitted that as to the "For Sale" sign, they live on the corner on the first street of a very popular housing market, and were of the belief that if a "For Sale" sign was placed in the yard, there would be an unreasonable amount of people walking to the front door, uninvited, wanting to view the home. The tenants submitted that this would deprive them of their right to quiet enjoyment.

As to the pit bull, the tenants said that they work on the weekends, and the landlord never offered to pay for boarding their dog while they were away, in the event there was a weekend showing.

As to the cleanliness of the rental unit, the tenants supplied proof that they had a cleaning person come once a month to provide a thorough cleaning.

In response to the tenants' submissions, the landlord denied that there was ever an official agreement with the tenants that the parties would have a set showing schedule 2 nights a week or that such an agreement was reasonable with the realtor.

The landlord denied that he was notified of the tenants' request that a "By appointment only" proviso be added to the "For Sale" sign.

The landlord submitted that he offered in an email to pay for boarding for the dog for the inspectors.

In final response to the landlord's rebuttal to their response, the tenant submitted that there was definitely an agreement in place with the realtor that there would be two nights of showings per week and that the only offer of boarding their dog was on the Friday before the hearing, with no chance to respond.

### Analysis

The right the landlord alleged that the tenants jeopardized and interfered with was his right to market the sale of the home in the best way possible by removing the "For Sale" sign and refusing to cooperate in agreeing to open houses on the weekend.

After considering all of the written and oral evidence submitted for and at this hearing, I find that the landlord has provided insufficient evidence to prove that the tenants significantly interfered with or unreasonably disturbed the landlord or seriously jeopardized the lawful right of the landlord.

In reaching this conclusion, I was strongly influenced by the landlord's admission that there is now an accepted offer on the home. This suggests to me that there has been no unlawful interference.

I also relied on the tenants' agreement with the landlord's realtor for two nights per week for showings, which I find to be a reasonable compromise and shows a willingness on the tenants' part to cooperate with the sale.

I find that the tenants not offering the home for showings or open houses on the weekend to be reasonable under the circumstances due to their weekend work schedule and having a pit bull at home. Nonetheless, the landlord could still arrange for open houses without the tenants' permission with the proper 24 hour notice issued pursuant to section 29 of the Act; however, the landlord never issued such notice for the showings and I cannot find that the tenants violated the Act in not volunteering to allow the weekend showings.

While I find that the tenants are not allowed to remove the "For Sale" sign, I find their explanation that they only did so as the landlord or his realtor failed to add an addition to the sign that any showings would be by appointment only to be reasonable.

Due to the above, I therefore find that the landlord has submitted insufficient proof to prove the cause listed on the Notice.

As a result, I find the landlord's 1 Month Notice to End Tenancy for Cause, dated and issued on July 26, 2013, for an effective move out date of August 31, 2013, is not valid and not supported by the evidence, and therefore has no force and effect. I order that the Notice be cancelled, with the effect that the tenancy will continue until ended in accordance with the *Act*.

I find the tenants were successful with their application and I award them the filing fee. The tenants are allowed to deduct \$50 from their next or a future month's payment of rent in satisfaction of this monetary award.

I advise the tenants that they are not allowed to remove the "For Sale" sign on the lawn of the rental unit and that should there be future such occurrences of such a nature, the landlord is at liberty to issue another 1 Month Notice.

While I have no authority to order the landlord to amend the "For Sale" sign to include a clause that showings are by appointment only, I find such a request by the tenants to be reasonable under the circumstances.

### Conclusion

The landlord's 1 Month Notice to End Tenancy for Cause dated and issued July 26, 2013, is not valid and not supported by the evidence and the tenants are granted an order dismissing the Notice.

The tenants are directed to withhold \$50 from their next or a future month's rent payment in recovery of their filing fee for this application.

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* and is being mailed to both the applicant and the respondent.

Dated: September 11, 2013

---

Residential Tenancy Branch

