



# Dispute Resolution Services

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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"). The tenants applied for an order cancelling a 1 Month Notice to End Tenancy for Cause (the "Notice").

The tenant, his agent, and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond each to the other's evidence, and make submissions to me.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence. The parties confirmed that the only documentary evidence was the Notice submitted by the tenant.

I have reviewed all oral and documentary 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?

### Background and Evidence

This tenancy began on February 15, 2014, according to the tenant, or January 15, 2014, according to the landlord, monthly rent is \$1100, according to the tenant or \$910

according to the landlord, and the tenants paid a security deposit of \$455 at the beginning of the tenancy.

The landlord submitted that there was a written tenancy agreement; however, there was no copy of the agreement submitted by either party.

The rental unit is part of a 4 unit complex, all rented to other tenants by the landlord.

Pursuant to the Rules, 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 30, 2014, was delivered via personal delivery on that date to tenant SP, according to the landlord, listing an effective end of tenancy on August 31, 2014.

The causes as stated on the Notice alleged that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord, put the landlord's property at significant risk, and have caused extraordinary damage to the rental unit.

In support of her Notice, the landlord submitted that when another tenant moved into one of the 4 rental units in the residential property, she discovered that some of her personal property had been stolen. Again in June, this tenant had cash for the monthly rent, and this cash was stolen.

The landlord submitted further that the tenants obtained a cat, in contravention of the tenancy agreement, and will not get rid of the cat. The landlord submitted further that the tenants have people coming and going into the rental unit.

The landlord also submitted that in July, the tenant reported a broken toilet, it was replaced, and the in August, the tenant reported the toilet was broken. The landlord submitted further that the tenant stores gasoline in the residential property, and that her homeowner's insurance is impacted.

#### *Tenant's response-*

The tenant denied storing gasoline in the residential property, and as far as the toilet issues, the tenant notified the landlord when they moved in that there was a problem with the toilet, in July a plumber "snaked" the sewer line, and in August, the toilet broke, through no fault of the tenant.

The tenant submitted he had nothing to do with the theft on the property, and that he also was the victim of theft.

The tenant submitted further that he has friends come over and that he has removed the items in storage.

### Analysis

The onus is on the landlord to prove that she had cause to end this tenancy, as listed on her Notice issued pursuant to section 47 of the Act.

In this case, I find the landlord submitted insufficient evidence to substantiate that she had cause to end this tenancy. In reaching this conclusion, the landlord stated that another tenant's property was stolen; however, the landlord failed to provide any proof that these tenants were responsible. The landlord also failed to prove that there was any term in the tenancy agreement prohibiting cats in the rental unit, as there was not a tenancy agreement submitted so that I could review the document.

The landlord also mentioned events which have occurred in August, after the Notice was issued, which led me to conclude that the alleged incidents did not cause the Notice to be issued. I also find that the landlord failed to convince me that the tenant has stored to excess in the storage units of the residential property or that the tenant has stored hazardous material, as there were no supporting witness statements or other documentary evidence to support her position that there was cause to end the tenancy.

In any dispute when the evidence consists of conflicting and disputed verbal testimony, in the absence of other independent documentary evidence, I find the party who bears the burden of proof, the landlord here, will not likely prevail on the balance of probabilities. Therefore it is not necessary for me to determine credibility or assess which set of "facts" is more believable because disputed oral testimony does not sufficiently meet the burden of proof.

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

As a result, I find the landlord's 1 Month Notice to End Tenancy for Cause, dated and issued July 30, 2014, listing an effective move out date of August 31, 2014, 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.

Conclusion

The tenants' application has been granted and I have cancelled the landlord's 1 Month Notice to End Tenancy for Cause.

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 6, 2014

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Residential Tenancy Branch

