



# 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 an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on March 24, 2015.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice issued on March 24, 2015, be cancelled?

### Background and Evidence

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on May 1, 2015.

Although the landlord has stated several reasons, the main reason stated in the Notice was that the tenants have engaged in illegal activity that has or is likely to jeopardize a lawful right or interest of another occupant of the landlord.

The Corporal testified that they are a police officer and the property came to their attention back in January 2015. The Corporal stated that there are people coming and going with stolen property. Stolen vehicles and other stolen items have been identified on the property. The Corporal stated that the tenant HJ has been link to 168 files since 2010, which included wire theft.

The Corporal testified that they have determined that the residential property falls under the nuisance bylaw. The Corporal stated that on March 17, 2015, they informed the owner that they need to start with the eviction process or the property owner would be subject to a \$1,000.00 fine for the attendance of any police, bylaw or fire services.

The Corporal testified that they first spoke to the landlord in January 2015 and then again in March 2015. The landlord then issued the Notice to the tenancy.

The Corporal testified that since the Notice was issued the tenant continues to use the premises to sell stolen property. The Corporal stated that the most recent transaction was when a victim of theft informed them that they saw their power saw that was stolen for sale on a local popular website. The Corporal stated that the contact number for the item for sale came back to the tenant HJ and when they made arrangements to meet and the tenant's friend attended with the stolen item and was arrested.

The tenant testified that they did not know that the property being stored on the premises was stolen. The tenant stated that the landlord has asked them to clean up the property which they have been doing. The tenant stated that if they were aware of the stolen property they would have asked the person to leave.

### Analysis

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

How to end a tenancy is defined in Part 4 of the Act. Section 47(1)(e)(iii) of the Act a landlord may end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

A Notice issued under this section of the Act must comply with section 52 of the Act – Form and content. Upon my review of the Notice, I find the Notice complies with the requirements of section 52 of the Act.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenants or a person permitted on the residential property by the tenants have engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another the landlord.

I accept the Corporal's testimony that the residential property came to their attention in January 2015, as result of stolen items being stored on the property. I accept this illegal activity is likely to jeopardize the lawful right or interest of the landlord. The landlord has been notified that the residential property is now considered a nuisance property and subject to fines and possible further court actions.

Although the tenant HJ denied any prior knowledge that the items were stolen, they are responsible for the actions that occur by their guest when they are permitted on the property.

Further, even after being served with the Notice the tenant placed an advertisement on a local website to sell the power saw that was stolen, the police were able to trace the number to the tenant HJ and the stolen property was recovered.

Although it was the tenants' friend that was charged with a criminal offence, this was a person they permitted on the property. I further find it more likely than not, and on the balance of probability, that the tenant was also engaged in illegal activity. The phone number that was used to advertise the stolen property was the tenant's HJ and HJ has been linked with 168 police files.

I find the Notice issued on March 24, 2015, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenants' application to cancel the Notice. I find the tenancy legally ended in accordance with the Act, on May 1, 2015, and the tenants are now overholding the rental premises.

As the tenancy legally ended on the effective date of the Notice, in order to give force and effect to the Notice, I find the landlord is entitled to an order of possession, pursuant to section 62(3) and 55 of the Act, effective **two days** after service on the tenants.

### Conclusion

The tenants' application to cancel the Notice, issued on March 24, 2015 is dismissed.

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: May 13, 2015

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Residential Tenancy Branch

