



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0701172 BC LTD and CB MACPHERSON REAL ESTATE LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenant's application to cancel a Notice to End Tenancy for cause and to recover the filing fee from the landlord for the cost of this application.

The tenant and the landlord attended the conference call hearing and gave sworn testimony. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

### Issue(s) to be Decided

Is the tenant entitled to have the One Month Notice to End Tenancy Cancelled?

### Background and Evidence

The parties agreed that this tenancy started on July 24, 2014. Rent for this unit is \$1,050.00 per month and is due on the first day of each month

The landlord testified that the tenant was served a One Month Notice to End Tenancy for Cause (the Notice) in person on April 27, 2015. The Notice has an effective date of

May 31, 2015 and gives the following reason to end the tenancy: The tenant has breached a material term of the tenancy agreement which was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant has allowed a dog and cat to live in the rental unit without the landlord's written permission and despite the terms of the tenancy agreement which stipulates that unless specifically permitted in writing in advance by the landlord, the tenant must not keep or allow on the residential property, any pets.

The landlord testified that the tenant moved her brother into the rental unit and the dog belonged to the tenant's brother. It was later determined that the tenant also had a cat. The pets were discovered around the middle of April, 2015. The landlord spoke to the tenant about the pets and followed this up with an email on April 21, 2015 informing the tenant that she must remove the pets as the tenant has breached the terms of the tenancy agreement. The tenant argued that due to her brother's medical condition he needed to keep the dog with him. The tenant did not mention the cat and the landlord suspect's the tenant has had the cat there for a longer period.

The landlord requested that the Notice is upheld and orally requested an Order of Possession of the rental unit.

The tenant testified that she had written to the landlord asking permission for the dog to be allowed to stay in the unit as her brother had come to visit while he waited for assisted living accommodation. Her brother had a medical condition that required that he keep the dog and the tenant pleaded this case under compassionate grounds. The tenant testified that once she received the landlord's warning email saying she must get rid of the dog the tenant did find a new home for the cat on May 01, 2015 and a place for her brother to move into with his dog on May 07, 2015.

The tenant testified that she did not argue with the landlord and did not have the cat prior to her brother coming to stay. Both pets were her brothers and the tenant would not jeopardize her tenancy by keeping pets. The tenant seeks to have the Notice cancelled and seeks to recover her \$50.00 filing fee from the landlord.

### Analysis

In this matter, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlord's evidence is contradicted by the tenant, the landlord will generally need to provide additional, corroborating evidence to satisfy the burden of proof.

I have reviewed the evidence and testimony before me and find the landlord sent the tenant an email warning the tenant that she must remove the dog from the unit immediately as the building has a strict no pet policy. If the dog is not vacated then the landlord will be forced to terminate the tenancy without further warning. On April 27, 2015 the landlord then served the tenant with a Notice to End Tenancy for Cause and cited the reason that the tenant had breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The tenant testified that the cat was removed from the unit on May 01 and the dog vacated on May 07, 2015. I find written Notice was not provided to the tenant and an email is not a recognised form of providing written notice of a material breach of the tenancy agreement; however, the tenant did receive this email and acted within a reasonable time to remedy the situation.

I am satisfied that the tenant did remove the pets within a reasonable time after she received the email from the landlord. Therefore, I find that the landlord has not provided sufficient evidence to show that grounds exist to end the tenancy and as a result, the Notice is cancelled and the tenancy will continue.

As the tenant's claim has merit I find the tenant is entitled to recover the filing fee of **\$50.00** from the landlord pursuant to s. 72(1) of the *Act*. The tenant may deduct this amount from the next month's rent when it is due.

I caution the tenant to ensure she does not allow pets on the property without written permission from the landlord.

### Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated, April 27, 2015 is cancelled and the tenancy will continue.

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: June 11, 2015

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Residential Tenancy Branch

