



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Firm Management Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

CNC

### Introduction

This hearing dealt with an application by the tenant for an order setting aside a 1 Month Notice to End Tenancy for Cause. Both parties appeared and gave affirmed evidence.

The application for dispute resolution had two names listed as the applicant. The tenant clarified that he is the only tenant and the only applicant. This decision reflects the correct name of the applicant.

The tenant had filed written evidence but had not served this material on the landlord. As a result, that material cannot be admitted into evidence or considered in the making of this decision.

The landlord confirmed that he had not filed any written evidence.

The tenant also confirmed that this application did not include a request for a monetary order.

### Issue(s) to be Decided

Is the 1 Month Notice to End Tenancy valid?

### Background and Evidence

This tenancy commenced November 1, 2015 as a one year fixed term tenancy to continue thereafter as a month-to-month tenancy. The monthly rent of \$675.00 is due on the first day of the month. The tenant paid a security deposit of \$337.50.

On May 16, 2016 the landlord issued and posted a 1 Month Notice to End Tenancy for Cause. The tenant filed this application for dispute resolution on May 30, 2016.

Neither party filed a copy of the notice. The landlord testified that the reasons stated on the notice were that the tenant or a person permitted on the property by the tenant had significantly interfered with or unreasonable disturbed another occupant or the landlord, and seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that he had received several e-mails and telephone calls from other tenants about the tenant smoking; fighting and screaming at the rental unit; and visitors at all hours. He also said that he thought the police had been there but he had not called them and did not know anything about the circumstances.

The tenant testified that he called the police once because of an incident involving his girlfriend and this is the only time the police have been to his unit. He said he is not the source of whatever disturbances are occurring in this building; that other residents have issues and the police have been to the building because of incidents involving other residents; and that his is being made the scapegoat for the building.

#### Analysis

On an application such as this the onus is on the landlord to establish the grounds stated on the notice to end tenancy, on a balance of probabilities. Often the evidence submitted by landlords on these applications include copies of signed letters or e-mails of complaint from the neighbours to the landlord; signed statements from the neighbours about events at the rental unit; copies of warning letters to the tenant; copies of incident reports; and/or actual testimony from the neighbours. Where one of the allegations is that a tenant is smoking in the rental unit contrary to the terms of the tenancy agreement a copy of the written tenancy agreement must be submitted into evidence. Finally, the landlord must file a copy of the notice to end tenancy served on the tenant to establish that it was in the prescribed form and contained all of the information required by the legislation.

In this case the only evidence is the conflicting oral testimony of the parties; the landlord saying the tenant is a problem and the tenant saying he is not. The evidence submitted by the landlord is not sufficient to tip the balance of probabilities in the landlord's favour. Accordingly, the tenant's application is granted.

#### Conclusion

For the reasons set out above the tenant's application is granted. The 1 Month Notice to End Tenancy for Cause is set aside and the tenancy continues until ended in accordance with the *Residential Tenancy Act*.

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: July 19, 2016

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Residential Tenancy Branch

