



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Li-Car Management Group  
and [tenant name suppressed to protect privacy]

## DECISION

### Dispute Codes:

CNC

### Introduction

The tenant has applied to cancel a one month Notice to end tenancy for cause.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing. Only a copy of a breach letter and a Notice ending tenancy were submitted. The parties were at liberty to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Preliminary Matters

The landlord acknowledged that the one month Notice ending tenancy for cause that is in dispute did not include an issue date. Section 52 requires the landlord to sign and date the Notice in order for the Notice to be effective.

I determined that as the tenant had disputed the Notice it would be reasonable to amend the Notice, in accordance with section 68(1) of the Act, which provides:

**68** (1) *If a notice to end a tenancy does not comply with section 52 [form and content of notice to end tenancy], the director may amend the notice if satisfied that*

- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and*
- (b) in the circumstances, it is reasonable to amend the notice.*

Therefore I find that the one month Notice ending tenancy for cause that is in dispute was issued on January 12, 2017; the date the Notice was posted to the tenants' door.

The tenant disputed the Notice on January 18, 2017.

On January 27, 2017 the landlord issued another one month Notice ending tenancy for cause; as an amendment to the January 12, 2017 Notice. The landlord recognized that the January 12, 2017 Notice had not been dated. The landlord attempted to have a cross application heard at the same time as the tenants' hearing, but was unable to apply within the required time limit. A future hearing has been scheduled (see cover for file number) where the landlord is requesting an order of possession.

There was no dispute that the amended Notice dealt with the same facts as the Notice issued on January 12, 2017. Therefore, the landlord agreed that the "amended" Notice ending tenancy issued on January 27, 2017 would be cancelled. The landlord agreed to withdraw the application for dispute resolution based on the January 27, 2017 Notice ending tenancy.

It was explained that if the tenant's application is dismissed the landlord would obtain an order of possession, pursuant to section 55(1) of the Act.

#### Issue(s) to be Decided

Should the one month Notice ending tenancy for cause issued on January 12, 2017 be cancelled or must the landlord be issued an Order of possession?

#### Background and Evidence

The tenancy commenced in November 2015. Rent is \$400.00 due on the first day of each month. There is no signed tenancy agreement. The parties were informed they are bound by the standard terms contained in the Regulation.

The landlord and the tenant agree that a one month Notice to end tenancy for cause was served on the tenant indicating that the tenant is required to vacate the rental unit on February 28, 2017.

The reasons stated for the Notice to End Tenancy were that the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful interest of another occupant or the landlord; and*
- *put the landlord's property at significant risk.*

The landlord said the tenant has made a number of reports of bed bugs in her unit. The landlord has hired a professional pest control company to respond to reports by inspecting units and treating as necessary.

The landlord said that on two occasions the tenant refused to allow the pest control technician into her rental unit; despite having been given notice of entry. The first refusal occurred on December 13, 2016. The landlord said the tenant had been provided notice

of entry, but the landlord could not establish the date and time that notice was given. The landlord said the Notice would have been posted to the door.

The tenant said that on December 13, 2016 the pest control technician entered her rental unit without notice. The tenant said she was shocked when that person entered her unit. The tenant said she did refuse treatment as she has allergies and cannot be in the unit when treatment occurs. The tenant had not prepared for treatment or to be out of the rental unit. The pest control instructions require occupants to leave the unit.

On January 11, 2017 the landlord posted a notice of entry to the tenants' door, for entry the following day, so that further treatment for bed bugs could take place. The tenant said that notice was not received. When the pest control technician came to her door she was not prepared to have treatment completed. The tenant was going to be away so she and the technician agreed treatment could take the following morning. The tenant was away for one week and assumes treatment occurred. The landlord said that treatment did take place after the tenant had refused entry; although he landlord was uncertain of the date that treatment occurred.

There was evidence that the tenant had reported pests and cooperated with treatments that had occurred in the past.

The landlord said the refusal of entry by the tenant places other residents of this multi-unit building at risk. Many of the residents are elderly and need assistance. When there are bed bugs support workers are affected and are not keen to enter the units. This poses a health and safety risk to others.

The landlord confirmed that there is no significant interference or unreasonable disturbance caused by the tenant.

### Analysis

After considering evidence submitted at this hearing, I find on the balance of probabilities that the landlord has provided insufficient evidence in support of the reasons given on the Notice ending tenancy. The landlord has confirmed there is no cause to support two of the reasons given on the Notice.

The landlord could not provide details of service of notice of entry for the treatment that was to occur on December 13, 2016. The landlord has the burden of proving service of the notice of entry. There was evidence the tenant had reported bed bugs and cooperated with past treatments. This leads me to conclude that the tenants' testimony on service of notice of entry is correct and that the tenant was unaware of the scheduled treatment.

In relation to the entry for January 12, 2017, I find that notice of entry posted on January 11, 2017 would be effective for entry on the fourth day after posting. Section 90(c) of the Act determines that a document posted to the door is served on the third day after posting. Entry could then be scheduled for a time 24 hours after service is deemed completed. Even if the tenant had received the notice of entry the landlord said was posted to the door, I find that the tenant was not given adequate notice of entry for January 12, 2017. The tenant did cooperate with pest control by rescheduling the treatment. There was no evidence that the delay of treatment for perhaps one day resulted in any health risk or risk to the landlord's property.

Therefore, I find that the one month Notice to end tenancy for cause issued on January 12, 2017 is cancelled. The tenancy will continue until it is ended in accordance with the Act.

I find that the one month Notice to end tenancy issued on January 27, 2017 has been withdrawn by the landlord and has no force or effect.

### Conclusion

The one month Notice ending tenancy for cause issued on January 12, 2017 is cancelled.

The one month Notice ending tenancy for cause issued on January 27, 2017 is withdrawn and has no force or effect.

The landlords' hearing scheduled based on the January 27, 2017 Notice ending tenancy is cancelled by agreement.

This decision is final and binding and 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: February 16, 2017

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Residential Tenancy Branch