



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNC, FF, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking more time than prescribed to dispute a notice to end the tenancy, for an order cancelling a notice to end the tenancy for cause, and to recover the filing fee from the landlord for the cost of the application.

The landlord and one of the tenants attended the hearing, during which I only heard affirmed testimony from the landlord.

No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

Has the landlord established that the notice to end the tenancy was given in accordance with the *Residential Tenancy Act*?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on September 1, 2016 and the tenants still reside in the rental unit. Rent in the amount of \$1,000.00 per month is payable on the 1<sup>st</sup> day of each month and there are currently no rental arrears. The tenancy agreement, a copy of which has not been provided by either party, specifies that a security deposit in the amount of \$500.00 is required, however the tenants have only paid \$200.00 of that in 2 installments during the tenancy, and no pet damage deposit was collected.

The landlord further testified that the tenants were served with a 1 month Notice to End Tenancy for Cause. Another agent of the landlord served it by posting it to the door of the rental unit on December 30, 2016. A copy has been provided by the tenants. It is dated December 29, 2016 and contains an effective date of vacancy of February 1,

2017. Page 2 of the notice does not indicate any reason for issuing it, but in the Details of Cause section states: "End of month to month tenancy." The landlord testified that the Residential Tenancy Branch had advised that a landlord may end a month-to-month tenancy and advised which form to use.

### Analysis

The *Residential Tenancy Act* specifies ways in which a tenancy ends, and when given by a landlord, a notice to end a tenancy must be in the approved form and contain a reason for ending the tenancy.

**44** (1) A tenancy ends only if one or more of the following applies:

- (a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:
  - (i) section 45 *[tenant's notice]*;
  - (i.1) section 45.1 *[tenant's notice: family violence or long-term care]*;
  - (ii) section 46 *[landlord's notice: non-payment of rent]*;
  - (iii) section 47 *[landlord's notice: cause]*;
  - (iv) section 48 *[landlord's notice: end of employment]*;
  - (v) section 49 *[landlord's notice: landlord's use of property]*;
  - (vi) section 49.1 *[landlord's notice: tenant ceases to qualify]*;
  - (vii) section 50 *[tenant may end tenancy early]*;
- (b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy;
- (c) the landlord and tenant agree in writing to end the tenancy;
- (d) the tenant vacates or abandons the rental unit;
- (e) the tenancy agreement is frustrated;
- (f) the director orders that the tenancy is ended.

The *Act* further states that a landlord may end a tenancy for cause:

**47** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- (b) the tenant is repeatedly late paying rent;

- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - (iii) put the landlord's property at significant risk;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
  - (i) has caused or is likely to cause damage to the landlord's property,
  - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
  - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;
- (g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) *[obligations to repair and maintain]*, within a reasonable time;
- (h) the tenant
  - (i) has failed to comply with a material term, and
  - (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
- (i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 *[assignment and subletting]*;
- (j) the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;
- (k) the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;
- (l) the tenant has not complied with an order of the director within 30 days of the later of the following dates:
  - (i) the date the tenant receives the order;
  - (ii) the date specified in the order for the tenant to comply with the order.

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, which can include the reason(s) for issuing it. A landlord may not end a tenancy without specifying which reason exists even if it is a month-to-month tenancy. The parties have a contract which can only end in accordance with the *Act*. In this case, no reasons are specified. I find that the landlord has failed to establish that there is a reason for ending the tenancy or that the tenants have been put on notice of what any reason is. I find that the notice is not effective, and I hereby cancel it.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee. I hereby grant a monetary order in favour of the tenants in that amount and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it.

### Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated December 29, 2016 is hereby cancelled and the tenancy continues.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it.

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: February 09, 2017

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Residential Tenancy Branch