



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNC

### Introduction

The tenants have applied to cancel a one month Notice to end tenancy for cause that was issued on January 5, 2017.

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, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the relevant evidence and testimony provided.

### Preliminary Matters

The parties confirmed receipt of all documents and evidence and were willing to proceed with late submissions made.

### Issue(s) to be Decided

Should the one month Notice ending tenancy for cause issued on January 5, 2017 be cancelled or must the landlord be issued an order of possession?

### Background and Evidence

The landlord and the tenants agree that a one month Notice to end tenancy for cause was served on the tenants indicating that the tenants were required to vacate the rental unit on February 28, 2017. As rent is due on the first day of each month the Notice contains the correct effective date. The tenants disputed the Notice within 10 days of the issue date of the Notice.

The tenants rent a cottage that is situated next to a home occupied by the landlord.

The reasons stated for the Notice to end tenancy were that the tenants or a person permitted on the property by the tenants has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord; and*
- *seriously jeopardized the health or safety or lawful interest of another occupant or the landlord.*

The landlord is elderly and has some serious health issues. The landlord has found the tenants behaviour stressful and feels harassed by the tenants. When asked to provide specific details in support of the reasons given on the Notice the landlord explained that the tenants have insisted on making repeated requests for repairs. The tenants also interfere with repair people when they arrive at the property. The landlord said the tenants had told workers that the landlord has dementia.

The landlord pointed to a letter in evidence issued by her physician. The letter issued on December 13, 2016 by the physician sets out what the landlord has described as stressful situations in dealing with the tenants. The physician writes that he cannot comment on the nature of the complaints, but confirms the landlord is vulnerable to stressful situations.

The landlord and her agent said they did not come to the hearing prepared to set out specific incidents that support the reasons given on the Notice ending tenancy. The landlord has found that tenants demanding and said the many requests for repair have caused the landlord stress. There have also been several incidents where the tenants where unpleasant with the landlord.

It was explained that the landlord is obligated to assess requests for repair and to determine if a repair is required by the legislation. A landlord is not obligated to respond to every request if the landlord determines the repair is not necessary.

The landlord said the tenants' stored boxes in the garage, with her permission, but then the landlord discovered 36 boxes. The tenants were told to remove the boxes. The tenants then put the boxes in the landlords' carport, without permission.

Discussion took place during the hearing, in relation to the method used to request repairs. The parties agreed that written communication had been agreed to in the past. It was suggested that the tenants use written communication only when making requests of the landlord. The landlord was reminded that it is the landlord who decides which repairs are required by the Act. If there is disagreement in relation to a repair the tenants may apply requesting an order for repair. A tenant can make the request for repair but has no right to direct repair people or to expect any repair not required by the Act.

The tenants said they wish to vacate once a new rental can be found. The parties were given a brief explanation of written notice to end a tenancy and a mutual agreement to end tenancy.

### Analysis

When a tenant disputes a Notice ending tenancy the landlord has the burden of proving the reasons on the Notice.

The landlord was not prepared to provide evidence in support of the reasons given on the Notice. The landlord expressed general concern with the behaviour of the tenants and repeated requests for repair. However, the landlord was not able to provide specific information on any significant interference, unreasonable disturbance or any jeopardy to the health, safety or lawful right of the landlord. The landlords' health is described as fragile, but it is for the landlord to manage the tenancy in a manner that takes into account the stress this may cause.

Therefore, in the absence of evidence in support of the reasons given on the Notice I find that the one month Notice ending tenancy for cause issued on January 5, 2017 is cancelled. The tenancy will continue until it is ended in accordance with the Act.

I have not made any other finding in relation to this tenancy. Only general information was given to the parties, who are encouraged to review the information on their rights and obligations available to them on the Residential Tenancy Branch web site.

### Conclusion

The one month Notice to end tenancy for cause issued on January 5, 2017 is cancelled.

The tenancy will continue until it is ended in accordance with the Act.

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 09, 2017

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Residential Tenancy Branch