



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MT, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

### Preliminary Issue

As part of the tenant's application, they have applied to allow them more time to make an application to cancel a Notice to End Tenancy pursuant to Section 66 of the Act. The One Month Notice to End Tenancy for Cause is dated January 29, 2017. The tenants have filed their application on January 31, 2017, two days after receiving the notice and well within the legislated timeline of ten days. The tenants have filed their application within the timeline and do not need an extension.

### Issues to be decided

Are the tenants entitled to have the One Month Notice to End Tenancy for Cause cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

The tenancy began on or about September 1, 2016. Rent in the amount of \$800.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$480.00.

The landlord issued a One Month Notice to End Tenancy for Cause on January 29, 2017 on the basis that the tenant is repeatedly late in paying the rent. The landlord testified that at the time

of issuing the notice; the tenants have been late paying the rent for the months of October, November and January. The landlord testified that the tenants have not paid for February or March either. The landlord requests an order of possession.

The tenant testified that she was late in paying the rent for October and November but shouldn't have to pay the outstanding balance for January as she's incurred costs to file this application. The tenant testified that she has not paid February or March's rent as she feels that she is legally entitled to "squat" for three months.

### Analysis

Residential Tenancy Policy Guideline 38 addresses the issue before me as follows:

*"Three late payments are the minimum number sufficient to justify a notice under these provisions. It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments".*

The landlord submitted documentation showing that the tenants were late paying the rent for three months at the time of issuing the notice, and two more months since then. Based on the above, the landlord is granted an Order of Possession pursuant to Section 55 of the Act, which must be served on the tenant(s).

The tenants have not been successful in their application.

### Conclusion

The One Month Notice to End Tenancy for Cause dated January 29, 2017 is of full effect and force. The landlord is granted an order of possession. The tenancy is terminated.

The tenant's application is dismissed in its entirety.

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: March 02, 2017

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Residential Tenancy Branch