



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, CNC, OLC, FF, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant disputing a rent increase and seeking an order cancelling a notice to end the tenancy for cause; an order that the landlords comply with the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlords for the cost of the application.

The tenant and an agent for the landlord attended the hearing on the first scheduled date, and the landlord's agent sought to adjourn the hearing. The tenant did not oppose the adjournment, and I adjourned the hearing providing an Interim Decision to the parties.

On the second date of the hearing, the tenant attended with a person to translate where necessary and both landlords also attended. The parties each gave affirmed testimony and were permitted to question each other.

The parties have provided numerous submissions of evidentiary material, some of which was received between the first and second scheduled dates, and contrary to the Rules of Procedure. No one opposed inclusion of any of the evidence or raised any issues with respect to service or delivery of documents or evidence, and all evidence provided has been reviewed and is considered in this Decision.

The parties were also advised at the commencement of the hearing that despite the applications made by the tenant, the hearing would focus on the notice to end the tenancy.

Further, upon hearing the testimony of the parties and reviewing the evidentiary material, I find it just to amend the Style of Cause to show the proper names of the parties, and the frontal page of this Decision reflects that amendment.

Issue(s) to be Decided

Have the landlords established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*, specifically with respect to the reasons for issuing it?

Background and Evidence

**The first landlord** (KM) testified that this month-to-month tenancy began on June 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$650.00 is payable on the 1<sup>st</sup> or 2<sup>nd</sup> days of the month according to the tenancy agreement dated June 1, 2014, a copy of which has been provided, and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$325.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is an in-law suite in the lower level of the landlords' home, and has its own separate entrance. The landlords reside in the upper level of the home.

The landlord further testified that on March 1, 2017 the landlord served the tenant personally with a One Month Notice to End Tenancy for Cause, a copy of which has been provided for this hearing. It is dated March 1, 2017 and contains an effective date of vacancy of March 31, 2017. The reasons for issuing it state:

- Tenant is repeatedly late paying rent;
- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk;
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to:
  - damage the landlord's property;
  - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
  - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord testified that the tenant pays rent on the 3<sup>rd</sup> of each month most often or later, and has provided copies of numerous receipts. The landlord also testified that the dates of the receipts are truly the dates that the landlords received rent from the tenant.

The tenant also cut off a counter top to put in a hutch without the permission of the landlords, took out smoke detectors and are still not attached.

The tenant is a property manager and manipulates the landlords to accomplish his own agenda as though he is the landlord. The tenant went into the landlords' home to present a document and pushed the landlords into signing it. He was very forceful and the landlord's husband is on medication for a heart issue. The landlord never got to see the document, but had to step in to prevent it.

The tenant also tried to push something on the landlord's husband to sign that was not legal. It was an illegal rent increase designed so that the tenant could sue the landlords. He has designed things very carefully, and has forged documents. Numerous tenancy agreements have also been provided, some of which are signed.

On February 17/15 the tenant presented the landlords with a new Tenancy Agreement which they signed as they were running out the door for an appointment. A copy has been provided as well as an Addendum, however the landlord testified they didn't sign an Addendum. Further, the landlord does not believe it is legal because only one landlord's name is on it, and both landlords own the property, and it states that the tenancy begins on June 1, 2014. The landlord's husband penned in the rental amount of \$550.00 per month. The tenant has the only signed copy, and when the landlord asked for a copy, the landlords received a different one that they had never seen before.

The tenant has effectively lowered rent by \$150.00 per month, pays whatever he likes and wants to act as the landlord.

**The second landlord** (JM) testified that the tenant has turned the den of the rental unit into an industrial shop to build fiberglass planes, and he sands and paints them with flammable paint which is why he removed the smoke detectors. The landlord can smell it, and the landlords have 2 children. It's very flammable and the landlord does not want his children to inhale the fumes. The landlord asked the tenant in writing to put the smoke detectors back on. The landlord also told him about the noise and the fumes and the tenant got a pipe to direct the fumes outside. He's not allowed to do it in the house but does it anyway. He also uses the high voltage power from behind the dryer to run a drill press to build the planes, which is illegal. He has also denied the landlords access to inspect the rental unit.

The tenant has also fabricated tenancy agreements and Addendums and forged the landlords' signatures. The original tenancy agreement has no Addendum; the tenant wrote one up on February 21 and fabricated the landlords' signatures.

The landlord further testified that the tenant knows when the landlords leave the premises and has deliberately attended the landlords' residence after they leave while the landlords' daughter is alone. She is afraid of the tenant, and the landlord arrived home finding her head under her pillow. The police were also called due to the tenant bothering the landlords' daughter while the landlords were away. The tenant's documentation states that the landlords physically attacked him, but that's not true.

**The tenant** testified that half of what the landlords stated in their testimony is not right; part is lies and others are put in a way to look good for the landlords and against the tenant.

The parties came to an agreement in a legal contract which is the only reason the tenant was several times at the landlords' residence except to pay bills. The landlord came back to the tenant to question it and that he needed more money. The tenancy agreement does not include all utilities, and the tenant said that he would pay more but the landlord had to show what he had to pay in the tenancy agreement, and that if the tenant had overpaid, the landlords should reimburse the tenant. However, the landlords didn't show any bills despite the tenant asking.

The tenant also testified that he has 4 different contracts before him and the only legal one is the last one which the parties signed, and a copy has been provided by the tenant. For the landlords to say that the landlord didn't sign it is a lie.

The tenant agrees that rent is payable on either the 1<sup>st</sup> or 2<sup>nd</sup> days of each month, and does not deny paying rent on the 3<sup>rd</sup> of the month or later on numerous occasions, however his pension comes from another country, and the tenant can't get the money on weekends or statutory holidays.

The tenant also agrees that he cut off 1 inch of the counter top to fit a small cupboard of his own. He talked to the landlord about it, who said he wasn't happy with it but did not forbid it. The portion cut off makes the kitchen better than before, and it's only one inch and there's no need for it.

The tenant also agrees that he removed the smoke detector because he is deaf in 1 ear and when the smoke detector beeps it hurts his ear, and it would beep even when cooking sometimes, and he forgot to put it back. The landlord asked the tenant to put it back and he did.

The tenant doesn't paint model planes in the house, but outside on the porch area. He uses an airbrush in a cabinet with a pipe that he installed in the window. There are no odors inside.

## Analysis

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 reasons for issuing it. In this case, the reasons for issuing it are in dispute.

The general rule for ending a tenancy for repeated late payment of rent is a minimum of 3 late payments over a reasonable period. I see no reason to not apply that general rule, considering that the tenant doesn't deny it. It is not sufficient to continually pay rent late because a pension cheque and the tenant's method of banking don't coincide with the due date of rent. I have reviewed the material, and I find that the tenant has been late with rent on more than 3 occasions.

A tenant may not alter countertops in a rental unit. The tenant in this case testified that it looks better; cut the countertop for his own benefit, having no regard to the landlords' property.

The tenant did not deny that police had been called by the landlords because the tenant bothered the landlords' daughter when the landlords were away, although his written material speaks to it. However I am satisfied that the tenant would know the landlords were away considering the rental unit is an in-law suite in the landlords' home. I find that the landlords had been disturbed.

The tenant also didn't deny the landlord's testimony that the tenant attempted to have the landlord sign a rent increase that was not legal in order to have grounds to sue the landlords.

I have also reviewed the numerous tenancy agreements, and there is no question in my mind that the tenant has forged the landlord's signature. It is not up to a tenant to make a tenancy agreement. The *Residential Tenancy Act* requires a landlord to enter into a tenancy agreement with a tenant and give the tenant a copy of it.

One of the landlords testified that the tenant has been using the higher voltage plug from the dryer to run his model plane building equipment, but the landlords have not provided any evidence as to its legality. There is also no question that the tenant removed smoke detectors. Although I agree that it may cause concern for the landlords, I am not satisfied that it is illegal.

Upon reviewing the evidentiary material, and considering the testimony of the parties, I find that the tenant has been manipulative, disruptive and has no defense to the notice.

I find that the landlords had cause to issue the notice to end the tenancy and the tenant's application for an order cancelling it is dismissed. The balance of the tenant's application is dismissed with leave to reapply.

The *Residential Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the notice given is in the approved form. I have reviewed the One Month Notice to End Tenancy for Cause, and I find that it is in the approved form and contains information required by the *Act*, and therefore I grant an Order of Possession in favour of the landlords. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

### Conclusion

For the reasons set out above, the tenant's application for an order cancelling a notice to end the tenancy for cause is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlords effective on 2 days notice to the tenant.

The balance of the tenant's application is hereby dismissed with leave to reapply.

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: April 28, 2017

---

Residential Tenancy Branch