



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, CNC

### Introduction

The landlords and the tenant convened this hearing in response to applications.

The landlords' application is seeking an order as follows:

1. To end the tenancy early and obtain an order of possession.

The tenant's application is seeking an order as follows:

1. To cancel a One Month Notice to End tenancy for Cause, issued on September 18, 2017.

Only the tenant appeared.

### Landlord's application

This matter was set for hearing by telephone conference call at 11:00 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant. Therefore, as the landlords did not attend the hearing by 11:10 A.M, and the tenant appeared and was ready to proceed, I dismiss the landlords' application without leave to reapply.

### Tenant's application

I am satisfied that the landlords were served with tenant's application as the landlord's referred to the tenant's application in the landlord's application for dispute resolution, which was joined to be heard with the tenant's application.

The tenant appeared gave testimony and were provided the opportunity to present their evidence orally and in written, documentary form, and make submissions at the hearing.

### Issue to be Decided

Should the Notice be cancelled?

### Background and Evidence

The tenancy began on August 27, 2017. Rent in the amount of \$500.00 was payable on the first of each month.

The Notice was issued on September 18, 2017, and served on the tenant indicating that the tenant is required to vacate the rental unit on September 30, 2017. That date is earlier than the Act allows and automatically corrects to October 31, 2017, pursuant to section 53 of the Act.

The reason stated in the Notice was that the tenant has:

- Seriously jeopardized the health, safety, or lawful right of another occupant or the landlord.

The tenant denies the reason stated in the Notice.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

In a case where a tenant has applied to cancel a Notice, Rule 11.1 of the Residential Tenancy Branch Rules of Procedure require the landlords to provide their evidence submission first, as the landlords have the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

This matter was set for hearing by telephone conference call at 11:00 A.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the tenant.

Since the landlords did not attend the hearing by 11:10 A.M. to present any evidence or submission in support of the Notice, and the burden is on the landlords to prove the Notice was issued for the reasons stated. I find that the landlords have failed to show cause to end the tenancy.

Therefore, I grant the tenant's application to cancel the Notice issued on September 18, 2017, and the Notice has no force or effect. The tenancy will continue until legally ended in accordance with the Act.

### Conclusion

The landlord's application to cancel the tenancy early and obtain an order of possession is dismissed without leave to reapply.

The tenant's application to cancel the Notice is granted. The tenancy will continue until legally ended in accordance with the Act.

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: December 08, 2017

---

Residential Tenancy Branch