



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenants under the *Residential Tenancy Act* (the “Act”), seeking to cancel a One Month Notice to End Tenancy for Cause.

I note that section 55 of the *Act* requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

The hearing was convened by telephone conference call and was attended by the Tenant, who provided affirmed testimony. The Landlord did not attend. The Tenant was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the Respondent must be served with a copy of the Application and Notice of Hearing. As the Landlord did not attend the hearing, I confirmed service of these documents as explained below.

The Tenant testified that the Application, the Notice of Hearing, and their evidence was personally served on the Landlord on November 2, 2017. As a result of this undisputed and affirmed testimony, I find that the Landlord was served with the above noted documents on November 2, 2017.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this

decision. At the request of the Tenant, copies of the decision will be e-mailed to them at the e-mail address provided in the hearing.

Issue(s) to be Decided

Is there a valid reason to cancel the One Month Notice under the *Act*?

If the Tenants are unsuccessful in seeking to cancel the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to section 55(1) of the *Act*?

Background and Evidence

The One month Notice to End Tenancy for Cause (the “One Month Notice”) in the documentary evidence before me, dated November 2, 2017, has an effective vacancy date of December 2, 2017, and states the following reasons for ending the tenancy:

- The tenant has allowed an unreasonable number of occupants in a rental unit;
- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; and
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The Tenant testified that there are multiple units and occupants on the property and that a break-in occurred at the unit of the Landlord’s child. The Tenant stated that the Landlord did not know who committed the break-in and that as a result, notices to end tenancy were served on all of the occupants. However, the Tenant testified that after they were served with the One Month Notice, the Landlord approached them and requested that they stay. The Tenant states that they reached a mutual agreement with the Landlord to continue the tenancy and that the Landlord agreed to rescind the One Month Notice. The Tenant stated that they have been paying rent without issue since that time and that they had expected the Landlord to appear at the hearing today to confirm that the One Month Notice had been rescinded.

In any event, the Tenant testified that the One Month Notice should be cancelled as they were not involved in the incident upon which the Landlord based their grounds to issue the One Month Notice and because the Landlord has issued the One Month Notice to them in bad faith.

The Landlord did not attend the hearing or provide any evidence in support of the grounds for ending the tenancy stated on the One Month Notice.

### Analysis

Ending of a tenancy is a serious matter and when a tenant disputes a Notice to End Tenancy, the landlord bears the burden to prove that they had sufficient cause under the *Act* to issue the notice. As the Landlord did not attend the hearing or provide any evidence for consideration, I find that they have failed to establish, on a balance of probabilities, that they had cause to end the tenancy under the *Act*. As a result, the One Month Notice is cancelled and the tenancy continues in full force and effect until it is ended in accordance with the *Act*.

### Conclusion

I order that the One Month Notice dated on November 2, 2017, be cancelled.

I also order that the tenancy continue in full force and effect until it is 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: January 24, 2018

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Residential Tenancy Branch