



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNC OLC FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on January 29, 2018. The Tenants applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause (the Notice) pursuant to section 47; and,
- an order requiring the Landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62.

Both parties attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Each party served the other party with their evidence package by registered mail. Both parties confirmed receipt of each other's documentary evidence package. The Tenants (applicants) did submit a second late evidence package. However, as discussed in the hearing, and as outlined in the rules of procedure 3.14, evidence to be relied upon at a hearing by the applicant must be received by the Residential Tenancy Branch and the respondent not less than 14 days before the hearing. As such, the last package submitted by the Tenants will not be considered, as it was submitted late.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenants applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss unrelated matters, with leave to reapply, on the Tenants' application with the exception of the following claim:

- to cancel the 1 Month Notice to End Tenancy for Cause.

### Background, Evidence and Analysis

In the matter before me, the Landlord has the onus to prove that the reason in the Notice is valid.

The Landlord served the Tenants with the Notice, in person, on November 2, 2017.

The Notice indicates the following reasons for ending the tenancy in the second page:

- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord
- Breach of a Material term of the Tenancy Agreement that was not corrected within a reasonable time after written notice to do so

Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, **give the address of the rental unit, state the effective date of the notice**, state the grounds for ending the tenancy, and be in the approved form, as quoted below:

#### ***Form and content of notice to end tenancy***

**52** *In order to be effective, a notice to end a tenancy must be in writing and must:*

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy,*
  - (d.1) for a notice under section 45.1 [tenant's notice: family violence or long-term care], be accompanied by a statement*

*made in accordance with section 45.2 [confirmation of eligibility],  
and*

*(e) when given by a landlord, be in the approved form.*

In this case, I note that the Landlord did not put an effective date on the Notice. Further, I note there is an upper and a lower unit in the house, and the Notice does not specify which specific address the Notice was intended for. Given these deficiencies in the Notice, I find it does not meet the form and content requirements set forth under section 52 of the Act.

In light of the above, I grant the Tenants' request to cancel the Notice. Accordingly, the tenancy continues at this time and until such time it legally ends.

It is important to note that I have made no finding as to whether the Landlord has a basis under the Act for ending the tenancy. The Landlord remains at liberty to re-issue a Notice to End Tenancy should the Landlord decide to pursue eviction.

As the Tenants were substantially successful with their application, I grant the recovery of the filing fee against the Landlord. The Tenants may deduct the amount of \$100.00 from 1 (one) future rent payment.

### Conclusion

The Notice issued on November 2, 2017, has been cancelled and the tenancy continues at this time.

I have made no finding as to whether there were sufficient grounds for eviction and the Landlord is at liberty to re-issue a notice to end tenancy if the Landlord so chooses.

The Tenants may deduct the amount of \$100.00 from 1 (one) future rent payment.

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 29, 2018

---

Residential Tenancy Branch