



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SHELMAR CREDIT ACCEPTANCE LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes          CNC, FF

### Introduction

The tenants apply to cancel a one month Notice to End Tenancy for cause dated December 10, 2017.

The Notice claims that there are too many occupants in the rental unit and that the tenants are seriously jeopardizing the health, safety or lawful right of the landlord. Proof of either of those allegations is grounds for ending the tenancy under s. 47 of the *Residential Tenancy Act*.

All parties attended the hearing, the landlord represented by Ms. D.S., and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the evidence show that either ground for the Notice has been established?

### Background and Evidence

The rental unit is a one bedroom apartment. The tenancy started in September 2004. Currently the monthly rent is \$832.00. The landlord holds a \$312.00 security deposit.

Ms. D.S. for the landlord testifies that there are five people living in the apartment and the landlord considers it a safety hazard.

She says that last summer the landlord did a walk through and there was too much “stuff” in the rental unit. The tenants were given time to fix the concern but when the landlord’s representative returned to inspect there was no answer at the door.

The tenant Ms. R.G. testifies that she, Mr. R.G. and three young children live in the rental unit. She has checked with the Residential Tenancy Branch, the City health department and the fire department and determined there are no rules restricting the tenants from having their three children there. She says the rental unit has been significantly reduced of clutter since last summer. She produces photographs corroborating that statement.

### Analysis

The landlord has not provided sufficient evidence to show that the tenants are somehow seriously jeopardizing its health, safety or lawful right or interest by over cluttering the rental unit. This ground for the Notice must fail.

A family of five in a one bedroom apartment appears to be out of the ordinary, at least in modern Canadian culture. However, cultural differences are not a valid reason to end a tenancy. The landlord has suggested but has not proved that the number of people in this apartment gives rise to a safety concern. There is no evidence to support that suggestion and it is not open to an arbitrator to speculate about the matter. This ground for the Notice must fail.

### Conclusion

The Notice to End Tenancy dated December 10, 2017 is hereby cancelled. As the tenants have been successful, they are entitled to recover the \$100.00 filing fee for this application. I authorize them to reduce their next rent due by \$100.00 in full satisfaction of the fee.

This decision was rendered orally at hearing and 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: February 06, 2018

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Residential Tenancy Branch