



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, AAT, FF

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause, dated December 21, 2017 ("1 Month Notice"), pursuant to section 47;
- an order to allow access to or from the rental unit for the tenants or the tenants' guests, pursuant to section 70; and
- authorization to recover the filing fee for this application, pursuant to section 72.

"Tenant AL" and the two landlords, "landlord DC" and "landlord BVC," did not attend this hearing, which lasted approximately 11 minutes. Tenant MN ("tenant") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed that she had authority to speak on behalf of tenant AL as an agent at this hearing.

The tenant testified that landlord BVC, who is also an agent for landlord DC, was personally served with the tenants' application for dispute resolution hearing package on January 5, 2018. In accordance with section 89 of the *Act*, I find that both landlords were served with the tenants' application on January 5, 2018.

The tenant testified that she received the landlords' 1 Month Notice on December 22, 2017, by way of email. The effective move-out date on the notice is January 31, 2018. Although the tenants were not served in accordance with section 88 of the *Act*, as email is not a permitted method, I find that both tenants were sufficiently served by email as per section 71(2)(c) of the *Act*, with the landlords' 1 Month Notice on December 22, 2017.

During the hearing, the tenant confirmed that she was not seeking for an order to allow access to the rental unit or to recover the \$100.00 application filing fee. Accordingly, these portions of the tenants' application are dismissed without leave to reapply.

### Issues to be Decided

Should the landlords' 1 Month Notice be cancelled? If not, are the landlords entitled to an order of possession?

### Analysis

In accordance with section 47(4) of the *Act*, the tenants must file their application for dispute resolution within ten days of receiving the 1 Month Notice. In this case, the tenants received the 1 Month Notice on December 22, 2017 and filed their application to dispute it on December 29, 2017. Accordingly, I find that the tenants' application was filed within the ten day time limit under the *Act*.

Where tenants apply to dispute a 1 Month Notice, the onus is on the landlords to prove, on a balance of probabilities, the grounds on which the 1 Month Notice is based. The landlords did not appear at this hearing. The landlords did not meet their onus of proof.

Therefore, as advised to the tenant during the hearing, the landlords' 1 Month Notice, dated December 21, 2017, is cancelled and of no force or effect. The landlords are not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

### Conclusion

I allow the tenants' application to cancel the landlords' 1 Month Notice. The landlords' 1 Month Notice, dated December 21, 2017, is cancelled and of no force or effect.

The landlords are not entitled to an order of possession under section 55 of the *Act*.

This tenancy continues until it is ended in accordance with the *Act*.

The remainder of the tenants' application is dismissed without 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: February 26, 2018

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Residential Tenancy Branch