



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47 of the *Act*;
- payment of the filing fee from the landlord pursuant to section 72 of the *Act*.

Both tenants and the agent for the landlord DF attended the hearing and were given a full opportunity to be heard; to present their affirmed testimony; to call witnesses; to cross-examine one another; and to make submissions.

I find that the notice of hearing was properly served and that evidence was properly served and submitted by all parties. Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

### Issue(s) to be Decided

Are the tenants entitled to a cancellation of the One Month Notice, pursuant to section 47(4) of the *Act*?

If not, is the landlord entitled to an Order of Possession, pursuant to sections 47 and 55 of the *Act*?

Are the tenants entitled to payment of their filing fee, pursuant to section 72 of the *Act*?

### Background and Evidence

While I have turned my mind to all the documentary evidence, including any and all reports, photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenants' claims and my findings around each are set out below

This tenancy commenced August 1, 1998. No written tenancy agreement was part of the record before me and none was available.

The landlord entered into written evidence a copy of the One Month Notice, dated April 25, 2018. The landlord's agent provided uncontradicted evidence that the One Month Notice was served on the tenants by posting it on their unit door on April 25, 2018. This evidence was supported by a Proof of Service, Notice to End Tenancy RTB form-34, signed by the landlord's agent DR and duly witnessed.

In his evidence the tenant RB admitted to receiving the One Month Notice on the morning of April 26, 2018, when he left for work.

In the One Month Notice, requiring the tenants to end this tenancy by May 31, 2018, the landlord cited the following reasons pursuant to section 47(1) (d) of the *Act*:

*Tenant or a person permitted on the property by the tenant has:*

- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

Based on undisputed testimony of the landlord's agent, the documents filed and, the admission of the tenant BR, I find that the tenants were properly served with the One Month Notice. I also find that the One Month Notice does comply with the form and content provisions of section 52 of the *Act*.

The incident that gave rise to the landlord issuing the One Month Notice is not in dispute. On April 2, 2018, at about 6:00 AM the tenant RB went into the lobby of the building and using a screw driver pried open the metal door to the fire monitoring panel. He then – at a minimum according to his own evidence – pushed the reset button three times. He was unable to put the door back on the panel. When he was leaving the lobby area he “gave the finger” to the camera that was recording his actions. The same day the tenant RB admitted to the landlord's agent DF and to the onsite maintenance

man that he had done this. Both DF and the maintenance man provided written statements confirming hearing this admission by RB.

In his evidence RB stated that the fire panel had been in “test mode” for about 4 months; in this mode it gives off a loud beeping sound every 3 seconds; sometimes this goes off 24 hours per day and sometimes it is intermittent; that he had made a number of written requests to repair the situation to the landlord’s agent that had been ignored; that he felt that landlord was acting intentionally to drive him out of his mind; on the day of the incident he had no sleep and had “cracked”.

The landlord’s agent denies having received any written complaints from the tenants and points out that it is unrealistic that the situation as described by the tenant RB would have been allowed to exist for 4 months.

There was an email entered into evidence by the landlord from JT of Big Blue Fire Protection dated May 18, 2018, dealing with an Emergency Service Call on April 2<sup>nd</sup>. This email states in part as follows:

*“Upon his arrival at the building our technician found the Fire Alarm Panel had been vandalized with the panel box door had been forced open and bent out of shape. The panel was in a trouble state and had the auxiliary disconnect switch engaged which compromised the safety and security of everyone in the building by effectively turning off the fire monitoring...”*

### Analysis

The landlord is attempting to end this tenancy because tenant RB has significantly interfered with or unreasonably disturbed another occupant AND/OR seriously jeopardized the health or safety or a lawful right of another occupant or the landlord. Under section 47 of the Act, a landlord may serve a One Month Notice to End Tenancy for Cause based on these grounds.

There is uncontradicted evidence that the tenant RB has by his actions seriously jeopardized the health or safety or a lawful right of all the other occupants of the building. His actions also put the landlord’s property at significant risk. Had a fire broken out while the fire monitoring system was effectively turned off events could have been catastrophic.

In the circumstances of this case I have no hesitation finding that the landlord has established cause for ending this tenancy; and that the One Month Notice dated April 25, 2018, is valid.

The tenants' application to cancel the One Month Notice is dismissed.

Section 55(1) of the *Act* states:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

Based on my findings as set out above the landlord is entitled to an order of possession effective two days after service on the tenants. If necessary, the order may be filed in the Supreme Court and enforced as an order of that Court.

### Conclusion

The tenants' application is dismissed and the landlord is granted an order of possession. The tenants are not entitled to payment of the filing fee from the landlord in these circumstances.

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: June 21, 2018

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Residential Tenancy Branch