



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF, OPC

### Introduction

This hearing dealt with cross applications pursuant to the *Residential Tenancy Act* (the Act)

The landlord applied for:

- an Order of Possession pursuant to section 55; and
- authorization to recover the cost of the filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of the landlords' documentary evidence. The tenant did not submit any documentation for this hearing.

### Issues(s) to be Decided

Is the tenant entitled to have the One Month Notice to End Tenancy for Cause set aside? If not, is the landlord entitled to an Order of Possession pursuant to a One Month Notice to End Tenancy for Cause?

Is the landlord entitled to the recovery of the filing fee?

### Background and Evidence

The landlord gave the following testimony. The tenancy began on or about June 1, 2017. Rent in the amount of \$950.00 is payable on the first of each month and at the outset of the tenancy the tenants paid a \$475.00 security deposit. The landlord issued

a One Month Notice to End Tenancy for Cause on March 13, 2018 with an effective date of April 30, 2018 for the following reasons:

*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.*

The landlord testified that she has received over 20 verbal complaints about the tenants and over ten written complaints. The landlord testified that the complaints range from loud noise, banging on walls, yelling and screaming at all hours of the night and the constant smell of smoke and marijuana coming from the unit despite a no smoking clause in the agreement. The landlord testified that numerous attempts were made to resolve the issue with the tenant including written and verbal warnings. The landlord testified that since the notice to end tenancy was issued there have been three more written complaints and one as recent as three days ago. The landlord seeks an order of possession as soon as possible.

The tenant gave the following testimony. The tenant testified that her son is the problem and that he is the reason for all of these complaints. The tenant testified that she is trying to get him to move out and find alternative housing but hasn't had any luck. The tenant requests one more chance.

### Analysis

When a landlord issues a notice under section 47 of the Act they must provide sufficient evidence to justify the issuance of that notice. The landlord provided extensive documentation that despite their best efforts, numerous warnings to the tenant and issuing a notice to end tenancy, the tenants have not corrected their behavior. In addition, the tenant herself does not dispute the landlords' testimony and asks for more patience. Based on the documentation before me, I find that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord. I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act. The form and content of the Notice is in accordance with the Act. The One Month Notice to End Tenancy for Cause dated March 13, 2018 with an effective date of April 30, 2018 is in full effect and force. The tenancy is terminated.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated. The landlord is entitled to retain \$100.00 from the security deposit for the recovery of the filing fee in full satisfaction of that claim.

The tenants' application is dismissed in its entirety 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: June 06, 2018

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Residential Tenancy Branch