



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDC

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47; and
2. A Monetary Order for compensation - Section 67.

The Landlord and Tenants were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matter

The Tenant confirms that it included in its application a monetary claim for compensation in relation to losses caused by acts of the Landlord during the tenancy.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the monetary claim is not related to the matter of whether the tenancy will end and as the Tenants’ claim for compensation may have merit, I dismiss the claim with leave to reapply.

### Issue(s) to be Decided

Is the notice to end tenancy effective for ending the tenancy?

### Background and Evidence

The following are agreed facts: The tenancy, under written agreement, started on April 28, 2018. The Tenants did not receive a copy of the signed agreement until given to them by the Landlord as evidence for this hearing. Rent of \$1,250.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$625.00 as a security deposit. On June 22, 2018 the Tenants were given a one month notice to end tenancy for cause (the "Notice"). The stated reason for the Notice is that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

The Landlord confirms that the form used for the Notice is identified as RTB-33(2007/07). It is noted that this form does not include any details that support the reasons for the Notice. The Tenant states that when it received the Notice it had no idea of the basis for the Notice. The Landlord confirms that it did not provide any evidence to support the reasons for the Notice until August 7 and 13, 2018.

### Analysis

Section 52(e) of the Act provides that in order to be effective, a notice to end a tenancy must be in writing and, inter alia, when given by a landlord, must be in the approved form. Section 68(1) of the Act provides that if a notice to end a tenancy does not comply with section 52 the notice may be amended if the person receiving the notice knew, or should have known, the information that was omitted from the notice, and in the circumstances, it is reasonable to amend the notice.

The form that was used by the Landlord as the Notice is over 11 years old. This form has been replaced with the approved form that contains instructions for the Landlord to include or attach details to support the stated reason on a notice to end tenancy for cause. The current approved form reflects the legal principle that a person is entitled to know the case against them, in a timely manner, in order to effectively respond. As the Landlord did not use the approved form for the Notice, as the Tenant was not provided

with any details for the reason set out on the Notice or attached to the Notice, and as the Tenant did not receive any details until the Landlord provided its evidence package, I find that the Tenant has been prejudiced by the late provision of the Landlord's evidence and the lack of details on an old form. For these reasons I find that the Notice is not effective for ending the tenancy and may not be amended in the circumstances. The tenancy therefore continues until effectively ended by either Party.

### Conclusion

The Notice is not effective for ending the tenancy and the tenancy continues.

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: August 21, 2018

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Residential Tenancy Branch