



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

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

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

RR, agent for the landlord ('the landlord'), testified on behalf of the landlord in this hearing and was given full authority to do so by the landlord. Both parties 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 landlord's agents confirmed receipt of the tenants' dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the Application. All parties confirmed receipt of each other's evidentiary materials and that they were ready to proceed.

The tenants confirmed receipt of the 1 Month Notice on July 25, 2018. Accordingly, I find that the 1 Month Notice was served to the tenants in accordance with section 88 of the *Act*.

### Issues

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

This month-to-month tenancy began on April 1, 2005, with monthly rent currently set at \$850.00 per month, payable on the first of each month. The landlord collected, and still holds, a security deposit in the amount of \$340.00. The tenants continue to reside in the rental unit, which is part of a duplex.

The landlord issued the notice to end tenancy providing 3 grounds:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. The 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;
3. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or health of another occupant or the landlord;

The landlord confirmed in the hearing that the tenants have not participated in any illegal activity, but that they are seeking the end of this tenancy for various reasons, including interfering in the ongoing dispute between the landlord and the tenants in the rental unit next door.

The landlord testified that the tenants in this dispute have been assisting their neighbours by storing their belongings on the landlord's property, placing their neighbour's car for sale on the property, and running an at home business without approval from the landlord. The landlord testified that the tenants dropped the other tenants' keys for them, which the landlord feels is inappropriate. The landlord testified that the tenants have also tried to interfere with the relationship the landlord has with other tenants who park a recreational vehicle on the property by badmouthing the landlords to them. The landlord testified that they have lost rental income due to the tenant's actions.

The tenants dispute that that the testimony of the landlord. The tenants admit to selling cars, but only on their own portion of the rental property. The tenants testified that the items stored on the property belong to them, and not the other tenants. The tenants admit that they are friends with the landlord's other tenants, whom they have known for at least 18 years.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The tenants filed their application on July 30, 2018, five days after receiving the 1 Month Notice. As the tenants filed their application within the required period, and having issued a notice to end this tenancy, the landlord has the burden of proving they have cause to end the tenancy.

Although the landlord provided oral testimony that the tenants have in caused them a loss of potential rental income, I find that the landlord did not provide sufficient evidence to support this loss. The landlord also provided several examples of how the tenants have interfered with, or disturbed the landlord, by assisting the tenants next door. I accept the sworn testimony of the tenants in the hearing that they have been friends with the other tenants for 18 years, and the friendship preceded this tenancy. The tenants dispute the landlord's testimony that they have allowed the other tenants use of the landlord's property without their permission. In light of the conflicting testimony, I am not satisfied that the landlord has provided sufficient evidence to support that the tenants have significantly interfered with or disturbed the landlord to the degree that is serious enough to warrant terminating this tenancy on that basis. The existence of separate disputes with the same landlord may be complicated by the friendship between the two parties, but does not obligate the tenants to relinquish their rights to assist their friends in a manner that does not contravene the *Act*. In this case, I find that the landlord did not provide sufficient evidence to support that the tenants have contravened the *Act*, and especially to the extent that this tenancy should be terminated on the grounds provided in the 1 Month Notice.

I am not satisfied that the landlord has met the burden of proof to demonstrate that this tenancy should end on the grounds that the tenants have significantly interfered with or disturbed the landlord.

The landlord had also cited that the tenants have engaged in illegal activity as a reason for ending this tenancy. I find that the landlord's testimony and evidence for this hearing does not adequately support that the tenants have engaged in any illegal activity, and this tenancy should not be terminated on that basis.

I am also not satisfied that the landlord has met the burden of proof to demonstrate that the tenants have seriously jeopardized the health or safety or lawful right of any other occupant or the landlord. For the reasons cited above, I find that the landlord has failed to demonstrate to the extent required that this tenancy should end on the grounds allowable under section 47 of the *Act*, and accordingly I am allowing the tenants' application for cancellation of the 1 Month Notice. The tenancy will continue as per the current tenancy agreement until ended in accordance with the *Act*.

## Conclusion

I allow the tenants' application, and the 1 Month Notice dated July 25, 2018 is cancelled. The 1 Month Notice dated July 25, 2018 is of no force or effect. This tenancy continues until ended in accordance with the *Act*.

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: September 28, 2018

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Residential Tenancy Branch