



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

On August 7, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting to cancel a One-Month Notice to End Tenancy for Cause, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and the Tenants attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Evidence

The Tenants stated that they served the Landlord their evidence package and the Landlord acknowledged receiving it. The Landlord stated that he served his evidence package to the Tenants on the day before this hearing and I found that the Landlord failed to serve the evidence in accordance with the *Residential Tenancy Branch-Rules of Procedure* and I was not going to admit any of the evidence. However, the Landlord testified during the hearing that he had had a letter from one of the tenants (not named on this Application) and was delaying service as he did not feel safe (for the tenant) to serve it to the other Tenants. Both the Tenants and the Landlord referred to this letter in the hearing and because they both knew of the letter and the Tenant had reviewed the letter before the hearing, I admitted it into evidence.

### Issues to be Decided

Should the One Month Notice to End Tenancy for Cause, dated July 30, 2018 (the "Notice") be canceled, in accordance with Section 47 of the Act?

Should the Tenants be compensated for the filing fee, in accordance with Section 72 of the Act?

### Background and Evidence

Although Tenant KS lived in the rental unit before, the most recent Tenancy Agreement began on March 27, 2018. Tenant KS signed the Tenancy Agreement with a second tenant (tenant EF), who had also lived in the rental unit prior to this date and who is not named on this Application. Tenant DV has been living in the rental unit; however, has not signed a Tenancy Agreement.

The Landlord and the Tenants (Tenant KS and Tenant DV) agreed that the monthly rent of \$1,700.00 is due on the first of each month and that the Landlord did not collect a security deposit from Tenant KS; however, did collect a pet damage deposit of \$850.00. The Landlord also acknowledged collecting a security deposit from tenant EF at a prior time and as part of a previous Tenancy Agreement.

#### Landlord's Evidence:

The Landlord testified that he served a One-Month Notice to End Tenancy for Cause on July 30, 2018, by personally delivering it to Tenant KS and tenant EF. The move-out date on the Notice stated August 31, 2018. The reasons stated on Page 2 of the Notice indicated that it was served as the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; put the landlord's property at significant risk; and, the tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit or property.

The Landlord stated that tenant EF approached him and indicated that she feels unsafe with her roommates (the Tenants), that they have been yelling at her and that she has not been living in the rental unit because of the tension between them. The Landlord stated that tenant EF provided a letter to him that explained the situation between the three tenants.

The Landlord also stated that Tenant DV owns a dog and that the dog is always running away or is unleashed, that it runs into other people's yards and that it is unsafe.

Furthermore, the Landlord said that he had an ongoing understanding with tenant EF about being responsible for cutting the grass and taking care of the yard, that these terms were a part of a previous Tenancy Agreement, and that the grass was in "terrible" condition. The Landlord acknowledged that the term for maintaining the grass, was not part the most recent Tenancy Agreement with Tenant KS and tenant EF.

The Landlord felt that the relationship between the three tenants was unhealthy and felt like he had to end the tenancy based on the concerns of tenant EF.

#### Tenants' Evidence:

The Tenants stated that they had no warnings letters from the Landlord about any of the issues brought up by the Landlord and specifically with the conflict with tenant EF or about any issues with their dog. They acknowledged that there had been arguments with tenant EF and were surprised at the letter from tenant EF and that she wanted to end the tenancy for all of them.

Tenant DV stated that he has a licensed therapy dog to support him with a brain injury and that he felt the neighbours got along with the dog and didn't have any issues.

The Tenants would like to stay in the rental unit and don't feel the Notice is valid.

#### Analysis

The Landlord has served the Notice on the Tenants based on Section 47(1)(d) and 47(1)(f) of the Act. When I consider the validity of the reasons the Landlord has for ending the tenancy, I must determine if the Landlord has sufficient evidence to prove that the Tenants' actions significantly interfered with or unreasonably disturbed another occupant, or seriously jeopardized the health and safety or a lawful right of another occupant or put the Landlord's property at significant risk. Furthermore, in relation to Section 47(1)(f), that the Tenants have caused extraordinary damage to the rental unit. The standard of proof is based on the balance of probabilities. If I find that any one of the reasons set out in the Notice are valid and that the Notice complies with Section 52 of the Act, I must grant the Landlord an Order of Possession for the rental unit in accordance with Section 55 of the Act.

I accept the Landlord's undisputed evidence that the Tenants may be in conflict with tenant EF and as a result, that tenant EF may have been upset and disturbed. I also acknowledge that Tenant DV's dog may have disturbed tenant EF and/or the nearby neighbours, and that the lawn may be in "terrible" condition. However, I do not find that any of the described issues have met the threshold of "significantly" interfering; "unreasonably" disturbing; "seriously" jeopardizing health or safety or lawful right; "significantly" putting the Landlord's property at risk; or, that there was any "extraordinary" damage to the rental unit.

I find that the Landlord has failed to provide sufficient evidence to justify that the reasons set out in the Notice are valid and therefore, I cancel the Notice. The tenancy will continue until it is ended in accordance with the Act.

The Tenant's Application has merit and I find that they should be compensated for the cost of the filing fee in the amount of \$100.00. As such, I authorize the Tenants to deduct \$100.00 from a future rent payment.

As this tenancy will continue, I recommend to all parties that they work together to resolve their conflict in a respectful manner and when required, to communicate in writing to ensure clear understanding and as a means to keep track of their interactions.

### Conclusion

I uphold the Tenants Application and cancel the Notice.

I authorize the Tenants to deduct \$100.00 from a future rent payment in compensation for the cost of the filing fee, in accordance to Section 72 of 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 25, 2018

---

Residential Tenancy Branch