



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with applications from each of the 16 tenants pursuant to the *Residential Tenancy Act* (the *Act*) for cancellation of a 1 Month Notice to End Tenancy for Cause (the “1 Month Notices”).

All parties were represented at the hearing. The tenant’s representative LH (the “tenant”) confirmed that they were authorized to represent all of the named tenants. The 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.

As both parties were represented service of documents was confirmed. The tenant confirmed that each of the named tenants was served with a 1 Month Notice dated December 29, 2018. The landlord confirmed that they were served with each of the sixteen applications for dispute resolution filed by the tenants. The landlord testified that they have not served any evidence. Based on the undisputed testimonies of the parties I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

### Preliminary Issue – Joiner

The applications deal with several distinct residential properties located in the same neighborhood. The parties testified that the same landlord is responsible for all of the properties. The landlord issued sixteen 1 Month Notices for each of the tenancies all stating the same reason for the tenancy to end, that the rental unit must be vacated to comply with a government order. Each of the tenants has applied to dispute the 1 Month Notice received. The landlord confirmed that they are the landlord for all of the tenancies. They did not object to having all of the matters combined.

Pursuant to Rules of Procedure 2.10, I find that the 16 applications involve the same landlord, and each application seeks identical relief. While there are separate residential addresses, I find that the same facts would be considered in each of the applications. Therefore, in accordance with the Rules of Procedure, I find it appropriate to join all matters so that they can be heard together at this hearing.

### Issue(s) to be Decided

Should the 1 Month Notices be cancelled? If not is the landlord entitled to Orders of Possession?

### Background and Evidence

The landlord is responsible for all of the tenancies in these applications. Since 1997 the landlord has entered into tenancy agreements with each of the tenants and has collected rent in exchange for exclusive use of the rental properties. The landlord testified that while they are not the owners of the subject properties they have acted as landlord by renting out the units and collecting rent.

The landlord testified that the local government has changed the requirements for operating tenancies and have issued numerous bylaw infraction notices. The landlord said that they are seeking to end the tenancies as they feel the restrictions placed by the local government are too onerous to continue with the present arrangement.

The landlord issued 1 Month Notices dated December 29, 2018 to each of the tenants and indicated the reason for the tenancy to end as:

Rental unit/site must be vacated to comply with a government order.

The landlord wrote in the portion of the 1 Month Notice to provide details of cause that, "Bylaws is shutting house down!"

The parties said that the notices were posted on each of the rental unit doors on or about January 3, 2019. The landlord did not submit any documentary evidence in support of their position.

### Analysis

In accordance with sections 88 and 90 of the Act, I find that the 1 Month Notices that were served by posting on the rental unit doors were deemed served on the 3<sup>rd</sup> day after posting. The parties testified that the 1 Month Notices were posted on or about January 3, 2019. Accordingly, I find that the notices were deemed served on each of the tenants on January 6, 2019, three days after posting.

Section 46 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.

I find that the applications filed by each of the tenants were filed from January 7, 2019 to January 16, 2019. Therefore I find that the applications to dispute the 1 Month Notice were filed within the ten days provided under the *Act*.

If a tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the present case the landlord must show that the rental unit/site must be vacated to comply with a government order.

While the landlord provided cogent testimony about the restrictions placed by local government, I find that in the absence of any documentary evidence in support of their testimony the landlord has not met their evidentiary burden. I am not satisfied that there is a government order requiring the rental unit to be vacated. I find the landlord's testimony to be insufficient evidence. Therefore, I find that the landlord has not shown on a balance of probabilities that the tenancy should end for the reason provided on the notice and the 1 Month Notices fail.

I find that the landlord has not provided sufficient evidence to show on a balance of probabilities that there is reason for these tenancies to end. Consequently, I allow the tenants' application to cancel the 1 Month Notices.

## Conclusion

The applications of the tenants to cancel the 1 Month Notices is granted. These tenancies will continue 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: February 26, 2019

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Residential Tenancy Branch