



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on March 4, 2019.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenants have applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlords have the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The current tenancy is a one year fixed term that commenced on August 1, 2018, and is ending on July 31, 2019. Rent in the amount of \$2,100.00, is payable on the first day of each month. The agreement states at the end of the fixed time the tenancy may continue on a month-to-month basis or another fixed length of time.

The parties agreed that the Notice was served on the tenants indicating that the tenants are required to vacate the rental unit on July 31, 2019.

The Notice does not state a reason; however, attached to the Notice was the following:

“Please note that our tenancy agreement on address ... is expiring on 31<sup>st</sup> of July 2019. I hereby landlord, ..., would like to notify you that I would not be renewing your agreement and would like to give you 3 ½ months of notice to vacate the premises unless we come to a mutual agreement on another contract at notary public.”

[Reproduced as written]

The landlord acknowledged that they want the tenants to come to a mutual agreement to increase the rent or vacate the premises. The landlord stated that rent is not covering the operational costs of premise.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, the tenancy reverts to a month-to month agreement or another mutual fixed term agreement at the end of July 2019.

I find the landlord cannot end the tenancy for cause, simply because they want to increase the rent or alternative have the tenants vacate the premise. The tenants are under no obligation to enter into a new agreement as the tenancy automatically reverts to a month-to-month agreement, if a new fixed term agreement is not reached. The tenants are not required to vacate.

Further, the landlord can only increase rent in accordance with section 42 and 43 of the Act. Should the landlord feel they are entitled to more than the allowable rent increase of 2.5% for 2019, they are entitled to make an application for an additional rent increase that is greater than the Act allows. The Residential Tenancy Regulation section 23(1) sets out the requirement for such an application.

**The landlord is cautioned** that they must comply with the Act, and issuing notices to end the tenancy that have no merit could have serious consequences, such as an Administrative Penalty.

**The landlord is cautioned** that when they attend a hearing they are to act in an appropriate manner. Yelling, not listening or following instructions, as displayed during this hearing, will not be tolerated.

Based on the above, I grant the tenants' application to cancel the Notice. The Notice has no force or effect. The tenancy will continue in accordance with the Act.

Since the tenants were successful with their application, I find the tenants are entitled to recover the filing fee from the landlords. I authorize the tenants a onetime rent reduction to deduct the amount of \$100.00 from June 2019, rent, in full satisfactory to recover the cost of the filing fee from the landlords.

#### Conclusion

The tenants' application to cancel the Notice is granted. The tenancy will continue in accordance with the Act.

I authorize the tenants a onetime rent reduction of \$100.00 from June 2019, rent, to recover the cost of their filing fee from the landlord.

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: May 09, 2019

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Residential Tenancy Branch