



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROLINE MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION** CNC, FFT, MT

### Dispute Codes

### 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;
- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

While the landlords' agent attended the hearing by way of conference call, the tenant did not. I waited until 11:10 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.m. The landlords' agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. As this was the tenants' application and that they served the landlord notice of this hearing, I am satisfied that the tenants were aware of today's hearing; accordingly, I proceeded and completed the hearing in the tenants' absence.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of an appearance by the tenants, I hereby dismiss the tenants' application in its entirety without leave to reapply.

Issue(s) to be Decided

Should the landlords One Month Notice to End Tenancy for Cause be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The landlords' agent gave the following testimony. The agent testified that the tenant moved into the subject unit on December 1, 2015. The tenant currently pays \$858.00 per month for rent, due on the first of each month. The agent testified that a One Month Notice to End Tenancy for Cause was issued on April 26, 2019 for the following reason:

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The agent testified that a new resident manager inadvertently checked off the box that this matter is under the Manufactured Home Park Tenancy Act, but should have checked off the Residential Tenancy Act. The agent testified that it was simple clerical error and that this was explained to the tenant. The agent testified that the tenant filed an application to dispute the notice and is not at any disadvantage because of the clerical error. The agent testified that they have received numerous verbal and written complaints about the tenants for the past year. The agent testified that the complaints ranged from, yelling and screaming at all hours of the day and night, high traffic of unknown parties coming and going into the subject unit, drinking, swearing, and banging noises on a consistent basis. The agent testified that despite being given three warning letters and a notice to end tenancy, the tenants' behavior has not improved at all. The landlord requests an order of possession.

### Analysis

Section 55 of the Act stated that where I dismiss the tenants' application to cancel a notice to end a tenancy issued by a landlord, I must grant an order of possession in favour of the landlord, provided the notice complies with section 52 of the Act. I have reviewed the One Month Notice and find that it does comply with section 52 of the Act. I accept the landlords' explanation of a simple clerical error by a new resident manager for "checking off" the wrong box. I find that there was no prejudice to the tenant as the tenant received the notice and filed an application to dispute it.

Based on the above, and that the landlord has provided sufficient evidence to support the issuance of the notice pursuant to section 47 of the Act, I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act. The notice is confirmed and is of full effect and force. The landlord advised that the tenant paid the rent for the month of June to which they issued a receipt "for use and occupancy only, tenancy is not reinstated". Based on that information I find that the order of possession will take effect at 1:00 p.m. on June 30, 2019.

### Conclusion

The landlord is granted an order of possession. The tenancy is terminated.  
The tenants' application is dismissed in its entirety without leave to reapply.

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: June 17, 2019

---

Residential Tenancy Branch