



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FFT, OLC

### Introduction

This hearing dealt with the tenant's 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;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and 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 parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Should an order be issued compelling the landlord to comply with the *Act*, regulation or tenancy?

Are the tenants entitled to the recovery of the filing fee from the landlord for this application?

### Background and Evidence

The landlords gave the following testimony. CV testified that the tenancy began on July 1, 2017. The current monthly rent is \$1705.00 due on the first of each month. CV testified that on November 23, 2019 while cleaning the gutters; her husband observed that the heat pump on the property had been damaged by the tenants dog urinating on it and that the skirting on the deck was damaged by the dogs as well. CV testified that her husband asked the tenant to repair the damage to which he replied “that’s not going to happen”. CV testified that on November 25, 2019 she issued a One Month Notice to End Tenancy for Cause on the following ground:

*the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [obligations to repair and maintain], within a reasonable time;*

WV testified that the tenant’s negligence in caring for their animals caused them to damage the heat pump and the skirting on the deck. The landlords request that the tenancy end and that they be granted an order of possession.

The tenants gave the following testimony. DP testified that the heat pump is dated and wasn’t maintained. DP testified that the deck flexes which causes certain portions to be exposed to the elements and rot. DP testified that he would have liked to resolve the matter however the landlords kept telling him that they wanted him to move. DP testified that he doesn’t feel that he should have to pay to repair items that the landlord has neglected. CP testified that she questions the relevance of the landlord’s documentation.

### Analysis

When a landlord issues a notice under Section 47 of the Act they bear the responsibility in providing sufficient evidence to support the issuance of that notice. It was apparent that the relationship between the parties is a contentious one. The parties were cautioned about their behaviour during the hearing as they were intent on engaging in an argument with each other. As noted above, the landlord bears the burden of proving their claim. The landlord discussed the issue about the heat pump and deck on one occasion and then issued a notice to end tenancy. Based on the testimony and documentation before me, the landlord has simply not provided sufficient evidence to show that this tenancy must end. The landlord did not pursue a monetary order for damages or have further discussions in attempts to resolve the matter. Although these

repairs are an issue between the parties, I find that it is a sufficient reason to end a tenancy. I find that the landlord has not been successful in showing that this tenancy must end. The notice to end tenancy is cancelled.

The tenants did not provide sufficient evidence to show that the landlord must be given a specific order to comply with the Act, regulation or tenancy agreement, accordingly; I dismiss that portion of their application.

As the tenants have been partially successful in this application, they are entitled to a one time rent reduction of \$100.00 from future rent.

### Conclusion

The One Month Notice to End Tenancy for Cause dated November 25, 2019 is cancelled; it is of no force or effect. The tenancy continues.

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 04, 2020

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Residential Tenancy Branch