



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FRASER PROPERTY MANAGEMENT REALTY SERVICE LTD. &  
VISIO DEVELOPMENTS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC MNDCT

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) by the tenants to cancel a 1 Month Notice to End Tenancy for Cause dated March 3, 2020 (1 Month Notice) and for a monetary claim of \$450.00 for an alleged breach of quiet enjoyment. The filing fee was waived.

The tenants and an agent for the landlord TC (agent) attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me. The parties confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence prior to the hearing. As a result, I find the parties were served in accordance with the Act.

Although the tenant had one witness and the landlord had two witnesses, none of the witnesses testified during the hearing, which I will address further below. Words utilizing the singular shall also include the plural and vice versa where the context requires.

I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary and Procedural Matters

Rule 2.3 of the RTB Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute

on the application, the most urgent of which is the application for emergency repairs for health or safety reasons. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the 1 Month Notice at this proceeding. The balance of the tenants' application is dismissed, with leave to re-apply.

In addition, the landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the tenants confirmed they do not currently use email due to problems with their computer, the decision will be sent by regular mail to the tenants.

#### Issue to be Decided

- Should the 1 Month Notice cancelled?

#### Background and Evidence

The parties agreed that a fixed-term tenancy began on July 1, 2019. Monthly rent in the amount of \$1,220.00 is due on the first day of each month. A security deposit of \$610.00 and a pet damage deposit of \$610.00 were paid by the tenants at the start of the tenancy.

The tenants were unable to provide the specific day they were served with the 1 Month Notice. Both tenants stated in February, which could not have possibly been the case as the 1 Month Notice is dated March 3, 2020. The tenants' application incorrectly states March 2, 2020, which is one day prior to the 1 Month Notice being issued. The tenants applied to dispute the 1 Month Notice on March 5, 2020, which is within 10 days of the 1 Month Notice being dated.

The 1 Month Notice has an incorrect effective vacancy date listed of March 3, 2020, which automatically corrects to April 30, 2020 under section 53 of the Act.

In the 1 Month Notice, the landlord has alleged three causes, namely:

1. Tenant or a person permitted on the property by the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.

3. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The agent testified that the tenants have been collecting bottles and cans in large quantities and have been photographed and seen on video bringing large bags of bottles and cans into the rental building and their rental unit, causing an ant infestation and COVID-19 concerns. The tenants did not deny that they have been bringing in the bottles and cans they have been collecting and stated that they need to do so to afford the rent, which they feel is too high. The tenancy began on July 1, 2019 and rent has not been increased since that time. The tenants also confirmed that the landlord has warned them previously to stop bringing in the bottles and cans they collect into the building and their rental unit due to the health concerns related to ant infestation and the COVID-19 virus.

The tenants did not dispute that the landlord paid over \$273.00 to have a pest control technician attend the rental unit to deal with an ant infestation. The agent stated that the cause of the ants is related to the tenants collecting bottles and cans and bringing those into the rental unit. The male tenant stated during the hearing, "we had ants again recently, so how do you explain that?" Almost immediately after making that statement, the male tenant admitted that the tenants had continued to collect bottles and cans and until Saturday, April 25, 2020, which was just five days before the hearing. The agent testified that a neighbour has compliance that they have ants now due to the tenant's introducing them into the rental unit and have now spread into the neighbouring unit, which is supported by the pest control invoice.

At this point in the hearing, the parties were advised that I was satisfied that the 1 Month Notice was valid and did not need to hear from any of the witnesses, based on the tenants' testimony. I find that it is not necessary for me to consider additional evidence related to the other causes listed on the 1 Month Notice.

### Analysis

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

The 1 Month Notice has an effective vacancy dated March 3, 2020, which automatically corrects under section 53 of the Act to April 30, 2020 as monthly rent is due on the first day of each month. The tenants disputed the 1 Month Notice within the ten-day timeline provided for under section 47 of the Act to dispute a 1 Month Notice. Once a 1 Month

Notice is disputed, the onus of proof is on the landlord to prove that the 1 Month Notice is valid.

Firstly, I find the pest control invoice supports that ants have been found in the rental unit previously and have been treated with treatment being in the neighbouring rental unit as well, and that the male tenant has admitted to further ants being in the rental unit during a time where the tenant also admitted to continuing to bring in the bottles and cans they have been collecting. I also find the photo and video evidence supports that the bottles and cans have been in large quantities and is not a reasonable use of the rental unit, especially given the current COVID-19 pandemic.

I afford significant weight to the male tenant admitting that the tenants continued to collect bottles and cans until Saturday, April 25, 2020, which is over 1.5 months after being issued the 1 Month Notice and that the male tenant also admitted to a further infestation of ants. Although the tenant was not aware how the ants could have been inside the rental unit again since the last treatment, I find that it is more likely than not that the ants were brought into the rental unit by the tenants in their bags of bottles and cans they admitted to collecting up until April 25, 2020. I also find that it is commonly known that ants are highly attracted to the residue commonly found on bottles and cans.

Based on the above, I find that the landlord has provided insufficient evidence to support the following cause:

1. Tenant or a person permitted on the property by the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord.

I find the actions of the tenants to be unreasonable given that they have confirmed they have been warned about bringing in the bottles and cans they collect into the rental unit for reasons due to both ant infestation and COVID-19 virus concerns and yet continued to do so for 1.5 months after being issued the 1 Month Notice. I find the tenants' actions to have significantly interfered with not only the neighbouring rental unit, but also the tenants at large and the landlord for failing to heed what I find to be a reasonable warning from the landlord.

Based on the above, I **dismiss** the tenants' application to cancel the 1 Month Notice.

Pursuant to section 55 of the Act and considering that I find the 1 Month Notice complies with section 52 of the Act, I must grant an order of possession to the landlord. Therefore, considering the current *Ministerial Order M089*, I find the tenancy ends

today, April 30, 2020 and I grant the landlord an order of possession effective **five (5) days** after service on the tenant.

*Ministerial Order M089* can be found at:

[http://www.bclaws.ca/civix/document/id/mo/mo/2020\\_m089](http://www.bclaws.ca/civix/document/id/mo/mo/2020_m089)

### Conclusion

The tenants' application is dismissed without leave to reapply. The 1 Month Notice issued valid and is upheld. The tenancy ends this date, April 30, 2020.

The landlord is granted an order of possession effective five (5) days after service on the tenants.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 30, 2020

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Residential Tenancy Branch