



# 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 tenant filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on January 14, 2020, pursuant to section 47 of the Act.

Both parties appeared, gave affirmed 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 tenant has 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 landlord has 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.

### Procedural matter

At the hearing I heard testimony from the parties on the issue of the condition of the tenant’s rental unit. However, I have not considered that issue as the detail listed in the Notice does not provide any details on this issue. I find it would be unfair and prejudicial to consider this matter when the tenant was not made aware of this matter in the Notice.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The tenancy began in 2014. Current rent in the amount of \$965.00 was payable on the first of each month. The tenant paid a security deposit of \$425.00.

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on February 29, 2020.

The reasons stated in the Notice was that:

The 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; and
- put the landlord's property at significant risk;

The tenant or a person permitted on the property by the tenants has engaged in illegal activity that has, or is likely to:

- Damage the landlord's property;
- Adversely affect the quiet enjoyment, security, or physical well-being of another occupant; and
- Jeopardized a lawful right or interest of another occupant or the landlord.

The tenant or a person permitted on the property by the tenant has caused extraordinary damages to the unit.

The landlord testified that the tenant continues to violate their tenancy agreement, which has a crime free housing addendum, which includes no drugs. The landlord stated that the tenant has admitted that they allow their godchild to smoke marihuana in their rental unit contrary to their tenancy agreement.

The landlord testified that on December 27, 2019, the tenant's godchild was at the premise with a homeless person and they were high and doing drugs in the pool area and a bag of methamphetamines were found. The landlord stated that the tenant's guest and the other person were escorted from the premises. However, the tenant's guest was seen entering the building and returning to the tenant's apartment.

The landlord stated that the police attended, and they seized the drugs; however, they did not remove the tenant's godchild as they were told they were living with the tenant at the time.

The landlord testified that the tenant has been cautioned many times about allowing their godchild onto the property as they are known for drug activity; however, the tenant ignores this request. The landlord stated that they have seen the tenant's godchild enter the premise using keys on more than one occasion. The landlord stated they have asked the tenant to return the extra set of keys given; however, they have refused.

The tenant testified that the person found in the pool area with drugs is their godchild and they promised the child's mother they would look out for the child. The tenant stated that they did not let their godchild into the building on that day, and the child was not living with them at the time. The tenant stated that they have given their keys to their godchild; however, it was only for them to take garbage out and not a set to keep.

The tenant testified that they were told by their godchild that they gained access to the building by a door that was propped open.

### Analysis

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

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord and has put the landlord's property at significant risk.

In this case, the tenant does not deny that their godchild smokes Marijuana in the rental unit; while I accept the tenant is not smoking drugs, I find the tenant is responsible for the actions of their guests. I find the tenant has breached the crimes free addendum to their tenancy agreement. Although Marijuana is now legal it was not legal at the time the agreement was entered into.

In this case, I do not accept the tenant's evidence of the tenant that their godchild does not have a set of keys. This does not have the ring of truth. The tenant's godchild was seen on November 21, 2019, entering the premise with keys and on other several other occasions.

Further, on December 27, 2019, the tenant's godchild was doing drugs in the common area with another person, who did not reside in the premise. They were both escorted

from the premises. Drugs were found left behind, I find this did put other occupants in the building at significant risk. Children reside in the building.

The tenant's godchild was seen re-entering the building and going to the tenant's apartment. I find it more likely than not that the tenant's godchild is on the premise as the tenant's guest and is more likely than not staying with the tenant. This is supported by the police report. I find the action of the tenant's guest is putting the landlord's property at significant risk.

I find the Notice has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice.

In this case, the landlord has agreed to extend the effective date of the Notice to April 15, 2020. I find the tenancy will legally end on April 15, 2020. Therefore, I find the landlord is entitled to an order of possession effective on the above extended vacancy date.

**Although I have ordered the tenancy will end pursuant to section 47 and 55 of the Act. I find the order of possession cannot be enforced until such time as the ORDER OF THE MINISTER OF PUBLIC SAFETY AND SOLICITOR GENERAL, Emergency Program Act, Ministerial Order No. M089, expires or is cancelled.**

### Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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: April 1, 2020

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Residential Tenancy Branch