



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WESTPARK INVESTMENTS  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated May 5, 2020 ("1 Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two male tenants did not attend this hearing, which lasted approximately 36 minutes. The landlord's three agents, landlord JT ("landlord"), "landlord BS" and "landlord SP," and the female tenant ("tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord confirmed that she was the president of the landlord company named in this application and that she had permission to speak on its behalf. She confirmed that landlord BS was the property manager and landlord SP was the resident manager and that both had permission to speak on behalf of the landlord company. The tenant confirmed that she had permission to represent both male tenants at this hearing.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application and the tenants were duly served with the landlord's evidence.

The tenant confirmed receipt of the landlord's 1 Month Notice on May 5, 2020. The landlord confirmed that the notice was served to the tenants on the above date. Both parties agreed that the effective move-out date on the notice is June 30, 2020. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were duly served with the landlord's 1 Month Notice on May 5, 2020.

### Issues to be Decided

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

Are the tenants entitled to recover the filing fee paid for this application?

### Analysis

In accordance with section 3(1) of *Ministerial Order M089*, issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, a landlord is not permitted to issue a notice to end tenancy to a tenant during the period of the order. In this case, the landlord issued the 1 Month Notice, which is dated May 5, 2020, to the tenants on the same date. This is during the period of the above order, which was effective on March 30, 2020.

Section 4(2) of *Ministerial Order M089* states that an Arbitrator must not grant an order of possession under section 55(1) of the *Act* during the period that the above order is in effect. This hearing occurred on June 12, 2020, during the period of the order, which was effective on March 30, 2020.

Accordingly, I allow the tenants' application. As advised to both parties during the hearing, the landlord's 1 Month Notice, dated May 5, 2020, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy will continue until it is ended in accordance with the *Act*.

As the tenants were successful in this application, I find that they are entitled to recover the \$100.00 filing fee from the landlord. The landlord agreed that the tenants can reduce their monthly rent by \$100.00 for their next July 2020 rent payment, in full satisfaction of this monetary award.

Conclusion

I allow the tenants' application to cancel the landlord's 1 Month Notice. The landlord's 1 Month Notice, dated May 5, 2020, is cancelled and of no force or effect. The landlord is not entitled to an order of possession under section 55 of the *Act*. This tenancy continues until it is ended in accordance with the *Act*.

I order the tenants to deduct \$100.00 from their future July 2020 monthly rent payable to the landlord for this rental unit and this tenancy, in satisfaction of the monetary award for the filing fee.

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 12, 2020

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Residential Tenancy Branch