



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, OPN, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlords under the *Residential Tenancy Act* (the “Act”), seeking:

- An Order of Possession based on a One Month Notice to End Tenancy for Cause (the “One Month Notice”);
- An Order of Possession because the Tenants gave written notice to end the tenancy; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlords, the Landlords’ Advocate, the Tenant S.T. and the Tenants’ Advocate. All testimony provided was affirmed. The Tenant and their Advocate acknowledged service of the Notice of Dispute Resolution Proceeding Package, including a copy of the Application and notice of the hearing, and both parties acknowledged receipt of each other’s documentary evidence. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and issues in this decision.

At the request of the Tenant, copies of the decision will be mailed to them at the dispute address and emailed to their advocate at the email address provided in the Application. At the request of the Landlords, a copy of the decision will be mailed to them at the mailing address listed in the application and emailed to their advocate at the email address listed in the Application.

### Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession?

Are the Landlords entitled to recovery of the filing fee?

### Background and Evidence

The One Month Notice in the documentary evidence before me is signed and dated August 15, 2019, and has an effective date of September 30, 2019. Although no grounds for ending the tenancy are checked off on the second page of the notice, in the details of cause section it states "Sibling (and former owner) requested an in need". The Landlord F.N. and their Advocate stated that the One Month Notice was amended by serving the Tenants with a letter outlining further details of cause. A copy of the letter was submitted for my review.

Neither the Tenant nor their Advocate denied receipt of the One Month Notice or the letter referred to by the Landlord, and there was no evidence before me that the Tenants filed an Application with the Branch seeking to dispute the One Month Notice. The parties also agreed that the Tenants have not given notice to end the tenancy.

### Analysis

Section 47 of the *Act* states that a landlord may end a tenancy by serving and enforcing a One Month Notice if one or more of the grounds under section 47 applies, the effective date for the One Month Notice is not earlier than one month after the date the notice is received, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and the One Month Notice complies with section 52 of the *Act*.

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must:

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

Although the One Month Notice is in writing in the approved form, contains the address for the rental unit and the effective date of the notice, no grounds for ending the tenancy were selected on the second page. Further to this, the information contained in the details of cause section is not related to a lawful ground for ending the tenancy under section 47 of the *Act*.

Although the Landlord F.N. and their Advocate argued that the One Month Notice was amended by way of a letter to the Tenants, I do not find that a notice to end tenancy can be amended in this manner. As a result, I find that the One Month Notice in the documentary evidence was not amended. Based on the above, I find that the One Month Notice does not comply with section 52 of the *Act* as it does not contain any reference to the grounds for which a One Month Notice may be served under section 47 of the *Act*, and is therefore invalid. The Landlords' Application for an Order of Possession based on this One Month Notice is therefore dismissed without leave to reapply.

Although the Landlords also sought an Order of Possession because the Tenants gave notice to end the tenancy, all parties agreed in the hearing that no such notice to end tenancy was given by the Tenants. As a result, I dismiss the Landlords' Application seeking an Order of Possession because the Tenants gave notice to end the tenancy without leave to reapply.

As the Landlords were not successful in their Application, I decline to grant them recovery of the filing fee.

### Conclusion

The Landlords Application is dismissed in its entirety without leave to reapply.

As discussed in the hearing, the Landlords remain at liberty to serve a new notice to end tenancy, when the temporary prohibition on service of notices to end tenancy is lifted, should they wish to do so, and/or to file an Application with the Branch seeking an early end to the tenancy pursuant to section 56 at any time, should they believe that they have the grounds to do so. As a result, all parties were encouraged to review their rights and obligations under the *Act* in relation to ending a tenancy.

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 1, 2020

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Residential Tenancy Branch