



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlords seeking an Order of Possession for cause.

Both landlords attended the hearing as well as a witness for the landlords, who was identified as the owner of the rental unit. One of the landlords and the witness gave affirmed testimony, and the landlords have provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The witness testified that he served the tenant with the application and notice of this hearing by handing it to an adult person at the rental home on July 3, 2020.

The Residential Tenancy Act provides that where a landlord has applied for an Order of Possession, the application may be served by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Should the landlords be granted an Order of Possession for cause?

### Background and Evidence

The landlord's witness testified that this month-to-month tenancy began on February 15, 2020 and the tenant still resides in the rental unit. Rent in the amount of \$900.00 is

payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$450.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is an apartment suite, and a copy of the tenancy agreement has been provided as evidence for this hearing.

On April 23, 2020, the 2 named landlords and the witness attended at the rental unit and personally served the tenant with a One Month Notice to End Tenancy for Cause, a copy of which has been provided for this hearing. It is dated April 23, 2020 but does not contain an effective date of vacancy. The reasons for issuing it state:

- 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;
  - Put the landlord's property at significant risk;
- 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;
  - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant;
  - Jeopardize a lawful right or interest of another occupant or the landlord.

The tenant has not served any of the landlords with an Application for Dispute Resolution disputing the Notice, and the landlords seek an Order of Possession.

### Analysis

During the course of the hearing I advised the landlords that the *Residential Tenancy Act* provides that if a tenant does not dispute a notice to end a tenancy given by a landlord, the tenant is conclusively presumed to have accepted the end of the tenancy. However, a Ministerial Order exists that states that a landlord may not issue a notice to end a tenancy for any reason during the time period of March 30, 2020 to June 23, 2020 due to the COVID-19 Pandemic. Since this notice to end the tenancy was issued during that time period, I cannot grant an Order of Possession.

Landlords may issue a notice to end a tenancy commencing on June 24, 2020 if the notice is not related to late payment of rent or failure to pay rent.

Conclusion

For the reasons set out above, the landlord's application is dismissed without leave to reapply

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: July 31, 2020

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Residential Tenancy Branch