



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution was made on September 15, 2020 (the "Tenants' Application"). The Tenants applied for the following relief, pursuant to the Residential Tenancy Act (the "Act"):

- an order to cancel a One Month Notice for Cause; and
- an order granting the recovery of the filing fee.

The Tenants and the Landlords attended the hearing at the appointed date and time. At the beginning of the hearing, the Landlords acknowledged receipt of the Tenants' Application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*. The Landlords confirmed that they did not submit any documentary evidence in preparation for the hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Are the Tenants entitled to an order cancelling the One Month Notice for Cause, pursuant to Section 47 of the *Act*?
2. If the Tenants are not successful in cancelling the One Month Notice, are the Landlords entitled to an order of possession, pursuant to Section 47, 55 of the *Act*?
3. Are the Landlords entitled to the return of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on May 19, 2020. Currently, the Tenants are required to pay rent in the amount of \$1,100.00 which is due to the Landlords on the 19<sup>th</sup> day of each month. The Tenants paid a security deposit in the amount of \$550.00 which the Landlords continue to hold.

The Tenants applied to cancel a Notice to End Tenancy. The Tenants stated that they received a handwritten note from the Landlords, a copy of which was submitted in documentary evidence in support. The Landlords stated that the tenancy agreement was handwritten, therefore, they served the Tenants with a handwritten Notice to End Tenancy. The Landlords confirmed during the hearing that the Notice submitted in evidence by the Tenants was the Notice that the Landlords had served to the Tenants to end the tenancy. The handwritten note is date September 14, 2020 and states;

“We are giving C.W. & A.D. and whom ever is staying with them a months notice Please vacate the basement suite by October 19<sup>th</sup> at noon clean and wipe everything down, as per our agreement this was a month to month.”

The Notice was signed by Landlord. G.S.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

I note that Section 55 of the Act states that in order for a Landlord to be granted an order of possession, the Landlords' notice to end tenancy must comply with Section 52 of the Act relating to form and content.

Section 52 of the Act States; 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.***

I find that the Landlords served the Tenants with a hand written Notice on a piece of lined paper, therefore is not in the approved form. I find the Notice does not contain the address of the rental unit, nor does it state the grounds for ending the tenancy.

I find the One Month Notice does not comply with Section 52 of the Act. In light of the above, I cancel the Notice to End Tenancy. I order that the tenancy continue until ended in accordance with the Act.

The Landlords may wish to use an approved form which are located at;  
<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/landlord-notice/one-month-notice>

As the Tenants were successful in their Application, I find that they are entitled to the recovery of the \$100.00 filing fee which they may deduct from one (1) future rent payment.

### Conclusion

The Tenants' Application is successful. The Notice to End Tenancy issued by the Landlords does not meet the requirements of Section 52 of the Act and is therefore cancelled. The tenancy will continue until ended in accordance with the Act.

The Tenants are granted the return of the filing fee and are permitted to deduct the \$100.00 from one (1) future rent payment.

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: November 09, 2020

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Residential Tenancy Branch