



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, FFT

### Introduction

The tenants have applied to cancel a One Month Notice to End Tenancy for Cause ("Notice") under section 47 of the *Residential Tenancy Act* ("Act"). In addition, they applied for an order under section 62 of the Act (landlord compliance), and, applied for recovery of the application fee. I note that the tenants made two applications on October 19, 2020; this Decision will address both applications.

Both parties attended the hearing on January 12, 2021, and no issues of service were raised by the parties.

### Preliminary Issue: Dismissal of Claims Unrelated to the Notice

Rule 2.3 of the *Rules of Procedure*, under the Act, states that claims made in an application must be related to each other. It further states that an arbitrator may use their discretion to dismiss unrelated claims with or without leave to reapply.

Having reviewed the tenants' applications, I find that the claims other than the application to dispute the Notice are unrelated (or, at least sufficiently unrelated) to this central claim. The most important matter that must be dealt with is determining whether this tenancy will continue.

As such, the tenants claims for an order under section 62 of the Act are dismissed, with leave to reapply. (Thus, only one claim for recovery of the filing fee will be considered.)

### Issue

Are the tenants entitled to an order cancelling the Notice?

### Background and Evidence

I have only reviewed and considered oral and documentary evidence meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues in the application. Only relevant evidence needed to explain my decision is reproduced below.

The landlord gave evidence that he issued the Notice by way of registered mail on or about October 9, 2020. A copy of the three-page Notice was in evidence. Page two of the Notice listed four grounds on which the landlord issued the Notice. The landlord referred me to documentary evidence concerning complaints from the neighbours. There were also references to the tenants leaving food out and attracting wild animals. In addition, he referred to the tenants' behaving in a blaming and racist manner.

The tenants disputed the entirety of the landlord's evidence and noted that there have been no complaints since July or August 2020. It should be noted that there is some documentary evidence from the landlord including a few emails and a letter, all of which are dated March through July 2020.

I note that the landlord previously issued a One Month Notice to End Tenancy for Cause on August 19, 2020, and on which identical grounds for ending the tenancy were indicated on page two. The tenants disputed that notice which resulted in the arbitrator setting aside the notice and dismissing their other claims with leave to reapply.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based. In this case, the landlord provided no evidence, other than two written complaints (and one follow-up email) from one neighbour, dated March 23, 2020, May 23, 2020, and July 20, 2020. As the neighbour who made the complaint did not attend the hearing to affirm the truth of her complaints, I place little evidentiary weight on those emails.

Beyond that, there is a dearth of evidence to support a finding that there are grounds on which the Notice could have been issued. Further, I find that the grounds on which the first notice to end tenancy (the August 19, 2020 notice) was issued have not occurred since. Indeed, there appear to be no complaints since the Summer of 2020.

Taking into consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has not met the onus of proving any of the grounds on which the Notice was issued. Accordingly, I cancel the Notice dated October 9, 2020. The tenancy shall continue until it is ended in accordance with the Act.

As the tenants were successful in quashing the Notice, I hereby award them \$100.00 for the cost of the application filing fee, pursuant to section 72 of the Act. In full satisfaction of this award I authorize the tenants to make a one-time deduction of \$100.00 from a future rent payment.

#### Conclusion

**I hereby cancel the One Month Notice to End Tenancy for Cause, dated and signed October 9, 2020. The tenancy shall continue until it is ended in accordance with the Act.**

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: January 12, 2021

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Residential Tenancy Branch