



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was scheduled to deal with a tenant's application to cancel a One Month Notice to End Tenancy for Cause ("1 Month Notice").

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

I confirmed the landlord was in receipt of the tenant's hearing package by personal service on November 25, 2020. I confirmed that the landlord had not submitted or served any evidence prior to this hearing.

The landlord had a witness with her at the commencement of the hearing. The witness was excluded with instructions to wait until called to testify. During the hearing, the reason the landlord presented as a basis for evicting the tenant did not warrant calling the witness.

### Issue(s) to be Decided

Should the 1 Month Notice be upheld or cancelled?

### Background and Evidence

An oral tenancy agreement formed between the parties for a tenancy that commenced in April 2020. The tenant paid a security deposit of \$675.00 and is required to pay rent of \$1350.00 on the first day of every month.

The rental unit was described as one of two self contained basement suites on the lower level of a house and the landlord occupies the upper level with her boyfriend.

On November 11, 2020 the tenant filed to dispute a One Month Notice to End Tenancy for Cause ("1 Month Notice") that is dated November 8, 2020 and has an effective date of December 31, 2020.

I informed the parties that the landlord has the burden to prove the tenancy should end. I asked the landlord to describe the reason(s) for seeking to end the tenancy. The landlord responded that she wants to sell the house as it is too big for her to manage and she is ill. I asked the landlord if there was any other reason for wanting to evict the tenants and she said "no". I asked the landlord if she had a copy of the eviction notice in front of her and she said she did not. The landlord stated that her witness, the other basement suite tenant, had prepared the eviction notice. I asked her what the reason was for having the eviction notice prepared and in response the landlord stated that she had already told me: that it is because she is ill and can no longer manage the large house and she wants to sell it.

The tenant and her advocate stated that the landlord had also made statements to them that she wants to sell the property at the time of serving the tenant with the eviction notice and when the proceeding package was served to the landlord.

I informed the parties during the hearing that based on the landlord's reasons that were put forth to me, the landlord does not have a lawful basis for ending the tenancy under the Act and that I would cancel the One Month Notice with the effect that the tenancy would continue.

Since the tenancy is continuing at this time, I continued to hear from the parties with a view to help facilitate greater understanding of the Act and their respective rights and obligations under the Act so as to avoid further disputes.

The landlord stated that she had been told by the tenant's advocate to not communicate with the tenant. The tenant stated that she is open to communication from the landlord either orally or in writing. Both parties told me that the other party yells at them and I suggested they try written communication in the future.

The landlord was of the understanding that she cannot sell her property if it is tenanted as prospective buyers will want to view the rental unit. I informed the parties that the Act provides for the ways in which a landlord and/or prospective buyer may enter the

rental unit which includes: getting the tenant's oral consent for entry; or, the landlord serving the tenant with a proper written 24 notice of entry. The landlord stated that her realtor wants the property to be vacated before listing it. I suggested the parties familiarize themselves with the provisions of the Act.

The landlord stated the tenant's son kicked her door. The tenant denied that and claims it was the tenant chopping meat when the landlord complained to her. I cautioned the tenant that she is responsible for ensuring any occupant she permits on the property does not cause damage or significantly interfere or unreasonably disturb other occupants or the landlord. The tenant indicated she understood.

### Analysis

Where a notice to end tenancy comes under dispute, the landlord bears the burden to prove that a valid notice has been served upon the tenant and the tenancy should end for the reason(s) indicated on the Notice.

The notice to end tenancy served upon the tenant in this case is a notice that is provided under section 47 of the Act. Section 47 of the Act provides a landlord a mechanism to end a tenancy where the tenant, or a person permitted on the property by the tenant, has given the landlord cause to end the tenancy.

In this case, the landlord did not provide any documentary or photographic evidence in support of ending the tenancy and relied upon her oral statements. The landlord repeatedly stated during the hearing that the reason she wanted to end the tenancy is so that she can sell the house. An owner's desire or intention to sell a house is not one of the reasons permitted under section 47, or any other section of the Act, for issuing a notice to end tenancy to the tenant.

For the reasons provided above, I cancel the 1 Month Notice dated November 8, 2020 with the effect that the tenancy continues at this time.

As I stated during the hearing, the landlord remains at liberty to list her property for sale as having a tenanted property does not take away the landlord's right to sell a property. Prospective buyers may be shown the rental unit if the tenant gives oral consent for the entry and the landlord serves the tenant with a proper written 24 hour notice of entry. The restricted right to enter the rental unit is provided under section 29 of the Act.

I strongly suggest the parties familiarize themselves with the Act to avoid future disputes. If the landlord is ill and having difficulty managing the property as she claims, the landlord has the right to appoint an agent to act on her behalf and/or hire a property manager.

### Conclusion

The 1 Month Notice to End Tenancy for Cause dated November 8, 2020 is cancelled and the tenancy continues at this time.

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: February 04, 2021

---

Residential Tenancy Branch