



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes** CNC, AS

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- cancellation of the One Month Notice to End Tenancy for Cause (the "**Notice**") pursuant to section 47; and
- an order allowing the tenants to assign or sublet because the landlord's permission has been unreasonably withheld pursuant to section 65.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:46 am in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 am. The landlord and her daughter ("**PK**") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, PK and I were the only ones who had called into this teleconference.

PK testified that the tenants served the landlord with the notice of with the notice of dispute resolution form and a copy of the Notice but did not serve her with any other documentary evidence. PK stated that the landlord did not submit any documentary evidence to the RTB in advance of the hearing.

### **Preliminary Issue – Tenants Vacated the Rental Unit**

At the outset of the hearing, PK testified that the first named tenant ("Ja Z") and the third-named tenant ("Je Z") had vacated the rental unit last week and taken their belongings with them. PK testified that tenant JC advised her that he would be out of the rental unit on March 3, 2021.

PK denied that JC was a tenant. She testified that Je Z and the landlord entered into an oral tenancy agreement starting June 1, 2015, whereby Je Z and Ja Z (her teenaged son) would reside in the basement suite of her house. No security deposit was paid. PK testified that JC moved into the rental unit with Je Z and Ja Z in September 2020. She testified that Je Z advised the landlord this this was a temporary arrangement, only going to last a month. However, in October 2020, PK testified that Je Z moved out and

JC and Ja Z remained. She testified that, while Ja Z's positions remained in the rental unit, Ja Z has not returned since.

Based on the undisputed testimony of PK, I find that Je Z is the sole tenant. Parties to a tenancy are established at the time the tenancy agreement is created, or when the parties explicitly agree to amend the tenancy agreement to add a new party. Accordingly, JC is not a tenant. He is an occupant of the rental unit. Additionally, as Ja Z was (and is) a minor and did not have sufficient capacity to enter into the tenancy agreement.

Section 44(1)(d) states that a tenancy ends when "the tenant vacates or abandons the rental unit". I do not find that Je Z's leave the rental unit in October 2020 amount to her "vacating or abandoning" it. Her belongings and her son remained in the rental unit. Rather, I find that by removing her belongings and by her son leaving the rental unit last week, Je Z vacated the rental unit. As such, the tenancy has ended. The fact that JC continues to reside at the rental unit does not serve to prolong the tenancy.

Accordingly, the tenants' application is moot and I dismiss it without leave to reapply.

To give effect to the fact that the tenancy has terminated, and as I have dismissed the tenants' application, I issue an order of possession requiring the tenants to deliver vacant possession of the rental unit to the landlord within two days of being served with this decision and attached order.

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: March 1, 2021

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Residential Tenancy Branch