



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL,

### Introduction

On February 5, 2021, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a One Month Notice to End Tenancy for Cause dated January 29, 2021 (“the One Month Notice”).

The Landlord and Tenant appeared at the hearing. The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and 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 to be Decided

- Does the Landlord have sufficient cause to end the tenancy?

### Background and Evidence

Both parties testified that the tenancy began on May 1, 2017 and is on a month to month basis. Rent in the amount of \$650.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$325.00.

The Landlord served the Tenant a One Month Notice to End Tenancy for Cause on January 29, 2021. The Notice has an effective date (the date the Tenant must move out) of March 31, 2021.

The Landlord selected the following reasons for ending the tenancy within the One Month Notice:

*Tenant or a person permitted on the property by the Tenant has:*

- *Put the Landlord's property at significant risk.*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *Jeopardize a lawful right or interest of another occupant or the Landlord.*

*Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.*

Page 3 of the One Month Notice contains a place for the Landlord to describe the details of cause. The Notice indicates that an Arbitrator may cancel the Notice if the details are not provided. The Landlord did not provide any information in the details of cause section of the Notice.

The Tenant testified that she did not know the reasons why the Landlord issued the notice to end tenancy and therefore was not able to fully prepare for the hearing and provide a written response. The Tenant testified that she only received the Landlord's documentary evidence on April 25, 2021.

The One Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

The Tenant disputed the One Month Notice on February 5, 2021 within the required time frame.

The Landlord provided testimony on the reasons why the tenancy should end. The Landlord testified that she did not provide details of cause within the One Month notice because she did not notice it. She stated that the Tenant knew the reason why the One Month Notice was issued.

The Landlord testified that the Tenant has consistently refused to allow the Landlord access to the rental unit for the purpose of an inspection. The Landlord testified that she issued two written notices of entry to the Tenant by posting the notices on the Tenant's door. One notice of entry was posted on January 24, 2021 and the other on January 25, 2021. The Landlord stated that the Tenant refused entry on January 25, 2021 stating that the notice was not served correctly. The Landlord then served the

second notice of entry for entry on January 29<sup>th</sup>. The Landlord acknowledged that her attempt to enter the unit on January 25<sup>th</sup> may have been premature.

The Landlord testified that the Tenant refused to allow the Landlord to enter the unit on January 29, 2021. The Landlord testified that her notice of entry provided a reason for the entry. The Landlord wanted to conduct an inspection of the unit.

The Landlord also testified that she is concerned that the Tenant is storing items in the furnace room which may present a safety risk. When the Landlord was asked whether the tenancy agreement prohibited the Tenant from using that space, she replied no. The Landlord wants the Tenant to agree to not use that space as it may be an insurance issue and prevent the Landlord easily access the water shut off for the residential property.

In response to the Landlord's testimony, the Tenant testified she told the Landlord that she was not permitting people into her unit because of the covid pandemic. She testified that she is at high risk because of her age and because she has pre-existing medical conditions. The Tenant does not understand the Landlords need to inspect since she has only inspected once in four years.

The Tenant testified that during the time the Landlord wanted to enter, she was dealing with pneumonia and was in and out of the hospital and on medication.

The parties were informed that a landlord has the right to enter a rental unit when proper written notice is given for a reasonable purpose. The Tenant was asked if she would comply with a proper written notice of entry in the future and after a few moments she replied that she would.

### Analysis

In the matter before me, the Landlord has the onus of proof to prove that the reasons for ending the tenancy in the One Month Notice are valid and sufficient to end the tenancy. Based on the evidence and testimony before me, I make the following findings:

I find that on January 25, 2021 the Landlord issued a proper notice of entry into the rental unit for a reasonable purpose and the Tenant refused entry. I find that the Tenant breached the Act that provides rights to the Landlord to enter a rental unit.

While the One Month Notice did not provide details of cause, it was issued by the Landlord on the same day that the Tenant refused entry. I find that it is reasonable to find that the Tenant knew the details of why the One Month Notice was issued.

I am mindful that landlords and tenants are very concerned about contracting the covid virus and I understand the Tenant's concern for having the Landlord in the rental unit. I find that the Tenant may have had a mistaken understanding that she could refuse entry. I note that in early 2020 due to Covid 19, landlords were prohibited from entering a rental unit for a few months.

After considering all the evidence before me, I find that the tenancy will continue. The One Month Notice to End Tenancy for Cause dated January 29, 2021 is set aside.

The Landlord is advised to fully complete any notices to end tenancy that are issued.

The Tenant is cautioned that refusal to allow the Landlord access to the rental unit when a proper written notice of entry is served may result in an end to her tenancy.

I order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant's mistake led to the issuance of the One Month Notice, I decline an order for the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

### Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated January 29, 2021, is cancelled.

The tenancy will continue until ended in accordance with the Act.

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: May 07, 2021