



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SWIFT INVESTMENTS LTD. and [tenant  
name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, PSF, AAT, OLC

### Introduction

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

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70.

The tenants attended the hearing via conference call and provided undisputed affirmed evidence. The landlord did not attend.

The tenants were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenants stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via email. The tenants stated that the landlord responded via email on June 10, 2021 confirming receipt of the package. I accept the undisputed affirmed evidence of the tenants and find that the landlord was sufficiently served as per section 71 of the Act.

Extensive discussions with both tenants clarified the tenants' requests for:

- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow access to or from the rental unit or site for the tenant or the tenant's guests pursuant to section 70.

The tenants confirmed that the selected issues were unrelated to the 1 month notice issued by the landlord. On this basis, pursuant to the Rules of Procedure, Rule 2.3, Unrelated issues, these portions of the tenants' requests are dismissed with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

I note for the record that the tenant, T.G. stated during the hearing that she felt the attitude of the Arbitrator was bad, that the Arbitrator was aggressive and rude. Both tenants were advised that it was not the intent of the Arbitrator to antagonize the tenants. An apology was given to both tenants and it the tenants' application was clarified and discussions took place with both parties. The tenant, M.G. took over as the primary speaker and the hearing proceeded without incident.

During the hearing the tenants clarified that they have been served two 1 month notice(s) to end tenancy and wish to dispute both. The tenants identified a 1 month notice dated April 29, 2021 and a 1 month notice dated May 25, 2021 which the tenants submitted copies of in their evidence.

#### Issue(s) to be Decided

Are the tenants entitled to an order cancelling the two 1 month notice(s)?

#### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenants provided undisputed affirmed evidence that they were served with a 1 month notice dated April 29, 2021 and a 1 month notice dated May 25, 2021.

The 1 Month Notice dated April 29, 2021 sets out an effective end of tenancy date of June 1, 2021 and that it was being given as:

- the tenant has allowed an unreasonable number of occupants in the unit;
- the tenant or person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk; or
- the tenant has engaged in illegal activity that has, or is likely to:
  - damage the landlord's property;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- the tenant has assigned or sublet the rental unit/site without the landlord's written consent.
- Residential Tenancy Act Only: security or pet damage deposit was not paid within 30 days after the tenant received the order or the date in the order.

The 1 Month Notice dated May 25, 2021 sets out an effective end of tenancy date of July 1, 2021 and that it was being given as:

- the tenant has allowed an unreasonable number of occupants in the unit;
- the tenant or person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk; or
- the tenant has engaged in illegal activity that has, or is likely to:
  - damage the landlord's property;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- the tenant has assigned or sublet the rental unit/site without the landlord's written consent.
- Residential Tenancy Act Only: security or pet damage deposit was not paid within 30 days after the tenant received the order or the date in the order.

The landlord provided what appear to be the same details of cause for both notice(s) which states:

*Tenant has been made aware several times of concerns and infractions in regards to the Tenant Rental Agreement and has been given adequate time to resolve all issues listed below and no change to date have been made.*

- 1) *2 dogs now are residents of the suite, no permission nor damage deposit was given.*

2) *Illegally parking two vehicles on the property who the tenant is not the registered owner of.*

3) *Person squatting on the property in a camper using powered all other amenities without no permission.*

*If photos are required please request and I can present them.*

[reproduced as written]

The tenants dispute the landlord's notice(s).

### Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

In this case the landlord did not attend the hearing to submit and present evidence regarding the two notice(s) to end tenancy. Without any submissions from the landlord, I find that the landlord has failed to prove on a balance of probabilities that at least one of the reasons set out in either of the notice(s) is valid. On this basis, the tenants' application to cancel the two notice(s) dated April 29, 2021 and May 25, 2021 are granted.

### Conclusion

The tenants' application for dispute is granted.

The tenancy shall continue.

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: August 23, 2021

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Residential Tenancy Branch