



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. The Applicants applied on November 13, 2021 for:

- an order to cancel a One Month Notice to End Tenancy for Cause, dated November 10, 2021; and
- an order for the Landlord to comply with the Act, regulation, and/or tenancy agreement.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenants testified they served the Notice of Dispute Resolution Proceeding and their amendments and evidence on the Landlords by non-registered mail on November 17, 2021, and the Landlords confirmed receiving the documents on an unknown date. I find the Tenants sufficiently served their documents on the Landlords on November 17, 2021, in accordance with section 71 of the Act.

The Landlords testified they served their responsive evidence on the Tenants by text and email on an unknown date, and the Tenants confirmed receiving the Landlords' evidence on an unknown date. I find the Landlords served their evidence on the Tenants in accordance with section 88 of the Act.

### Preliminary Matter

The Residential Tenancy Branch Rules of Procedure 2.3 states:

**2.3 Related issues** Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As it is not related to the central issue of whether the tenancy will continue, I dismissed the Tenants' application for an order for the Landlord to comply with the Act, regulation, and/or tenancy agreement.

### Issues to be Decided

- 1) Are the Tenants entitled to an order to cancel the One Month Notice?
- 2) If not, are the Landlords entitled to an order of possession?

### Background and Evidence

While I have considered all the documentary evidence and testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings are set out below.

The parties agreed on the following particulars of the tenancy. It began on September 15, 2021; rent is \$1,400.00, due on the last day of the month for the following month; and the Tenants paid a security deposit of \$700.00 which the Landlords still hold.

The Landlords and their family live in the main part of the house, and the Tenants rent the basement suite.

The Landlord testified he served the One Month Notice on the Tenants in person on November 10, 2021, which the Tenants confirmed. A copy of the One Month Notice was submitted as evidence. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because the Tenants or a person permitted on the property by the Tenants 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; and
- put the Landlord's property at significant risk.

The Landlord testified that the almost every night the Tenants are very loud, fighting, yelling, and screaming, and wake up the Landlord's family. The Landlord submitted as evidence a copy of a text message exchange with Tenant PW, beginning on September 28, 2021 at 3:56 a.m. The Landlord sent the message because the Tenants were fighting. In the text, the Landlord is telling the Tenant that they have awakened the Landlord's whole family. The Tenant replies the next morning, stating that they didn't realize the Landlords would hear them, that the Tenants had not considered the time, and that they will be more aware in future.

The Landlord submitted as evidence a 1:30 a.m. audio recording of the Tenants yelling, swearing, arguing, and crying. The Landlord testified it is a sample of what can be heard at night in the Landlord's unit on a regular basis. The Landlord testified that the noise is worse on the weekends. The Landlord testified that Tenant PW tends to drink to excess, which is followed by loud fights between the Tenants.

The Landlord's daughter testified that it is usually in the middle of the night that the Tenants are fighting, yelling, and slamming doors, and that the noise wakes up the whole family. The Landlord's daughter testified this happens "all the time."

The Landlord testified the Tenants' behaviour is causing him and his family a lot of stress, as they don't know what the Tenants "will be up to next." The Landlord testified the situation is negatively impacting his work, as it is always on his mind.

The Landlord testified they have called the police on several occasions due to the Tenants' loud fighting. Once was on October 22, 2021, at midnight; the Landlord said the Tenants kept him and his family awake until 4:30 in the morning. The Landlord testified the police took Tenant PW with them.

Landlord SG testified that the second time they called the police due to the Tenants' fighting and screaming was on November 9, 2021 at 12:30 a.m. The Landlord testified the police took both Tenants with them.

Tenant PW testified that the police "got tired" of the Landlord calling them for "no reason." Tenant RB testified that the Landlord threatened to call the police over the Tenants' cat.

Tenant PW submitted that the Landlord is exaggerating many events, and PW stated he is “not sure what [the Landlord] is going on about.” The Tenant acknowledged that the Tenants have had “a couple loud arguments,” and Tenant RB testified that “we have had a couple verbal arguments.” Tenant PW testified that he “[doesn’t] really drink much during the week,” as he needs to get up for work.

Tenant PW testified that in October the Landlord told the Tenants that he wants his son to move into the basement suite the Tenants currently occupy, and that about 20 days later, the Landlord gave them the notice to end tenancy.

### Analysis

Based on the parties’ testimony, I find the Landlord served the Tenants the One Month Notice on November 10, 2021, in accordance with section 88 of the Act, and that the Tenants received it on the same day.

As the One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form, I find it meets the form and content requirements of section 52 of the Act.

Section 47 of the Act states that a tenant receiving a One Month Notice may dispute it within 10 days after the date the tenant receives the Notice. As the Tenants received the Notice on November 10, 2021 and applied to dispute it on November 13, 2021, I find the Tenants met the 10-day deadline.

Section 47 of the Act states that a landlord may end a tenancy if a 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; or
- put the Landlord’s property at significant risk.

I accept the affirmed testimony of the two Landlords and their daughter that at night the Tenants are frequently very loud—fighting, yelling, and screaming—and that the Tenants wake up the Landlord’s family, to the point where it is affecting the Landlord’s work, and the Landlords have called the police on multiple occasions.

Based on the affirmed testimony of the two Landlords and their daughter that the Tenants have frequently awakened the Landlord's family at night with their loud fighting, I find that the Tenants have significantly interfered with or unreasonably disturbed another occupant or the Landlord, as contemplated by section 47(d)(i) of the Act. This finding is supported by the Landlord's documentary evidence, including the text messages with Tenant PW about the Tenants awakening the Landlord's family, and the audio recording of one of the Tenants' late night fights.

Therefore, in accordance with section 47 of the Act, I find the Landlord is entitled to an order of possession.

As the tenancy is ending, I find it unnecessary to consider the other two reasons indicated on the One Month Notice.

### Conclusion

The Tenants' application is dismissed; the One Month Notice is upheld.

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenants.

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 16, 2022

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Residential Tenancy Branch