



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued on June 28, 2022.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, , and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Preliminary Issue

In this case JT filed the application as a tenant. JT is the granddaughter of the owner of the Manufactured home. JT has not been added as a tenant to the tenancy agreement by consent of all parties. Although I accept MP is an absentee tenant and does not live within the park they are the only tenant under that agreement. While JT may have permission of MP, their grandmother, to live in the home, that is on an occupancy basis. I find JT is not a tenant under the Act. JT is an occupant with no legal rights or obligations under the Act. Including does not have the right to file this Application.

However, as the landlord HA has had conversations with MP, the tenant regarding this issue, I find it reasonable to amend the Application to add MP as the correct tenant and removed JT. I am satisfied that JT has the authority of their grandmother to act on their behalf.

I have amended the style of cause to reflect the correct tenant. I am satisfied that MP is aware of this matter as they have discussed this with the owner HA. Therefore, I find it reasonable to proceed with this matter.

I note that MP is an absentee tenant; however, MP is responsible for the action of anyone permitted to be on the property. I will address this issue later in this decision.

### Issues to be Decided

Should the Notice be cancelled?

### Background and Evidence

The reason stated in the Notice was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that there has been ongoing issues with this tenancy, and over the years the tenant has been issued warning letters.

The landlord testified that on June 26, 2022, the police attended the rental unit to drop off 4 intoxicated people, who went into the premises. The landlord stated that right away yelling and cursing started, and these people were removed from the home and the police were called. The landlord stated that this was an unreasonable disturbance and interfered with the other occupants right to quiet enjoyment.

The landlord testified that since this incident things have been fair quiet; however, that appears to be the pattern.

JT testified that on June 26, 2022, they were asleep and had no idea what was going on until it was too late. JT stated that the police had no authority to be dropping off an extremely intoxicated persons at their home as they were not invited. JT stated that one

of the people felt entitled to come to their premises as they had stay there from time to time in the past.

JT stated they wanted these people out of the home and yelling did occur as they were backed into a corner. JT stated that they were getting pushed, shoved and assaulted. JT stated that they called the police. JT stated that they are very sorry that this incident happened, but it was not cause by their actions or neglect.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlords has not provided sufficient evidence to show the reasons stated within the Notice.

I accept there was a disturbance on June 26, 2022; however, I have no statements from any of the occupants of the manufacture home park showing that they were significantly interfered with or unreasonably disturbed on this night.

Further, even if there was a disturbance, I am not satisfied that it was caused by the action or neglect of the tenant or the occupant JT. The police dropped off intoxicated people at the premises, although known to the occupant JT, the police left without confirming with the homeowner or the occupant that they were agreeable for these people to be left at the premises, which clearly they were not. I find this was unreasonable.

JT the occupant was asleep at this time and within minutes of their arrivals JT is woken and tried to have these unwanted, uninvited, intoxicated people leave their home, which was reasonable given the circumstances. I accept the tenant is responsible for the action of the occupant and any guests; however, I am not satisfied that the tenant or the occupant JT invited these people as their guests.

I find the evidence does not support the Notice was issued for the reasons stated. Therefore, I grant the tenant's application to cancel the Notice. The tenancy will continue until legally ended.

As the tenant is an absentee tenant, I find it appropriate to make the following Orders.

**I Order the tenant MP** is to provide the landlord with their contact information including telephone number, email address if one exists. As the landlord has the right to contact the tenant regarding issues of the tenancy. As it is the tenants responsible for the action of the occupants and any guest.

### Conclusion

The tenant's application to cancel the Notice, is granted..

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: December 06, 2022

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Residential Tenancy Branch