



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC

### Introduction

This hearing dealt with the Tenants' application under the *Residential Tenancy Act* (the "Act") for:

- disputing a One Month Notice to End Tenancy for Cause dated October 21, 2022 (the "One Month Notice") pursuant to section 47; and
- an order that the Landlord comply with the Act, the regulations, or tenancy agreement pursuant to section 62.

The Tenants attended this hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The Landlord did not attend this hearing. I left the teleconference hearing connection unlocked until 9:45 am in order to enable the Landlord to call into the hearing scheduled to start at 9:30 am. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that the Tenants and I were the only ones who had called into the hearing.

All attendees were advised that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings.

### Preliminary Matter – Service of Dispute Resolution Documents

The Tenants confirmed that they served the Landlord with the notice of dispute resolution proceeding package, an amendment form, and the Tenants' supporting documentary evidence (collectively, the "NDRP Package") by registered mail on

November 3, 2022. The Tenants submitted a registered mail tracking number in support (referenced on the cover page of this decision). Tracking records indicate that the package was delivered on November 7, 2022. Based on the foregoing, I find the Landlord was served with the NDRP Package in accordance with sections 88(c) and 89(1)(c) of the Act.

#### Preliminary Matter – Landlord’s Non-attendance

Rule 7.3 of the Rules of Procedure states:

##### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Having found the Landlord to have been duly served with notice of this hearing, I directed that the hearing be conducted in the absence of the Landlord.

#### Issues to be Decided

1. Are the Tenants entitled to cancel the One Month Notice?
2. Are the Tenants entitled to an order that the Landlord comply with the Act, the regulations, or the tenancy agreement?

#### Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

This tenancy commenced on August 14, 2021 and is month-to-month. Rent is \$2,500.00 due on the first day of each month. The Tenants paid a security deposit of \$1,250.00 and a pet damage deposit of \$500.00, which are held by the Landlord. The Tenants submitted a copy of their tenancy agreement into evidence.

The Tenants also submitted a copy of the One Month Notice into evidence. The One Month Notice is signed by the Landlord but does not state an effective date. It states the reasons for issuing this notice are:

- Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
- Security or pet damage deposit was not paid within 30 days as required by the tenancy agreement.

The One Month Notice provides the following additional details of cause (portions redacted for privacy):

*Tenant got a puppy and after discovering the maximum damage deposit allowed I denied the puppy. Having a [dog breed] myself I know how much damage a pup can cause. Told by the former tenant they neglected the dog. Told [Tenant MP] bought out his guns to the former tenant to show him but the tenant did not feel safe. I feel like action of showing off his guns is unsafe for my property. Have in writing that they are not allowed to have another pet besides their older cat without permission and they still went out.*

The Tenants confirmed that they received a copy of the One Month Notice in person on October 12, 2022.

The Tenants explained that they had approval from the Landlord via text message for getting their puppy. However, the Landlord wanted the Tenants to pay another pet damage deposit of \$1,000.00, even though the Tenants already paid a pet damage deposit of \$500.00 for their cat. The Tenants stated they told the Landlord the additional deposit was not legal, the Landlord said he will deny the puppy, but the Tenants already had the puppy. The Tenants stated that they informed the Landlord in advance that the Tenants had a 2-week trial with the puppy, after which time the Tenants would be committed to keeping the pet. The Tenants testified that the Landlord never followed up even though the Tenants were willing to pay an additional pet damage deposit of \$750.00.

The Tenants testified that one of the Tenants, MP owns firearms which are stored legally. The Tenants testified that the former tenant had asked MP to see the firearms. The Tenants denied that they had put the Landlord's property at significant risk.

The Tenants testified that the Landlord never gave them any BC Hydro bills until October 11, 2022, at which time the Landlord wanted the Tenants to pay all the bills at once. The Tenants stated that they paid the October bill and proposed a payment schedule for the other amounts. However, the Landlord did not agree to the payment schedule. The Tenants testified that they did not think it was fair for the Landlord to have waited the whole year before giving them the bills. The Tenants stated that the Landlord refused the Tenants' request to put the utilities in the Tenants' name.

### Analysis

#### *1. Are the Tenants entitled to cancel the One Month Notice?*

Section 47 of the Act permits a landlord to end a tenancy for cause upon one month's notice to the tenant. Section 47(1) describes the situations under which the landlord will have cause to terminate the tenancy.

Section 47(3) of the Act requires a notice to end tenancy for cause given by the landlord to comply with section 52, which states:

#### **Form and content of notice to end tenancy**

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

(emphasis added)

I find the One Month Notice does not state an effective date, and is therefore not a valid notice to end tenancy under section 52 of the Act.

I further note that where a tenant applies to dispute a notice to end a tenancy issued by a landlord, Rule 6.6 of the Rules of Procedure places the onus on the landlord to prove,

on a balance of probabilities, the grounds on which the notice to end tenancy were based.

Since the Landlord did not attend this hearing to give evidence, I would have also cancelled the One Month Notice on the basis that the Landlord did not discharge his onus to prove the grounds for ending the tenancy.

Based on the foregoing, I conclude that the Tenants' claim to dispute the One Month Notice is successful. I order that the One Month Notice be cancelled and of no force or effect.

*2. Are the Tenants entitled to an order that the Landlord comply with the Act, the regulations, or the tenancy agreement?*

On the Tenants' application, the Tenants had initially indicated as follows:

*The representative for our landlord requested over the legal amount required for a pet deposit. Additionally, before our 1-year lease ended, he was also asking us when we planned to move out, and was texting us about viewing places, despite there being no written notice about ending the tenancy.*

The Tenants submitted a request to amend their application as follows (portions redacted for privacy):

*We did not receive a BC Hydro Bill until October 11, 2022 via email from our landlord and representative, [Landlord name] and [representative AG], despite asking for the bills on multiple occasions. They now want to receive all the payments, totaling \$519.33 before November 30, 2022. We do not feel this is appropriate, as it took well over a year to receive some of these bills. We feel that should either NOT have to pay them at all, as the downstairs tenant who has now moved out never needed, OR should be able to pay them in installments we are comfortable with, as outlined in our email on October 24, 2022.*

I find clause 3 of the parties' tenancy agreement indicates that "electricity" is not included in the monthly rent. I find that clause 13 "utilities and maintenance responsibilities" in the tenancy agreement addendum states: "Tenant is responsible to pay 65% of utility bills. The landlord will put all utility services necessary under their

name to maintain the premises under the terms of this Agreement". I find the tenancy agreement does contain any other terms regarding payment of utilities.

Under these circumstances, I find the parties have agreed that the Tenants are responsible for paying 65% of the utility bills, including electricity, but have not agreed on a timeframe for the Landlord to provide the Tenants with bills or a timeframe for the Tenants to pay such bills.

I am therefore unable to conclude that the Landlord must waive the utility fees in the circumstances or accept payments in installments in order to comply with the Act, the regulations, or the tenancy agreement.

Accordingly, the Tenants' claim under this part is dismissed without leave to re-apply.

### Conclusion

The Tenants' claim to dispute the One Month Notice is successful. The One Month Notice is cancelled and of no force or effect. This tenancy will continue until ended in accordance with the Act.

The Tenants' claim to seek an order that the Landlord comply with the Act, and regulations, or the tenancy agreement with respect to the payment of utilities is dismissed without leave to re-apply.

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: December 22, 2022

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Residential Tenancy Branch