



## **DECISION**

### **Introduction**

This hearing dealt with the Tenant's September 5, 2025, Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- cancellation of the One-Month Notice to End Tenancy for cause (the "One-Month Notice")
- compensation for monetary loss/other money owed
- the Landlord's compliance with the Act/tenancy agreement

The Landlord filed an Application on September 9, 2025, crossed to that of the Tenant, for:

- an order of possession in line with the One-Month Notice
- recovery of the Application filing fee.

The Landlord and the Tenant both attended the scheduled hearing.

### **Preliminary Matter – service of documents and evidence**

By my Interim Order to adjourn this matter, I confirmed each party's disclosure of evidence to the other. By this measure, all evidence the parties submitted is on the record for my consideration.

### **Preliminary Matter – withdrawn issue**

The Tenant applied for compensation for monetary loss/other money owed. In the hearing, the Tenant withdrew this issue from their Application. As per s. 64(3)(c) of the Act, I amend the Tenant's Application to remove this issue from consideration.

## **Issues to be Decided**

- Is the One-Month Notice valid? If valid, is the Landlord entitled to an Order of Possession?
- Is the Tenant eligible for recovery of the Application filing fee? Is the Landlord eligible for recovery of the Application filing fee?

## **Background and Evidence**

The parties agreed that the tenancy started in 2008. There was a signed tenancy agreement in place at that time, prior to the current Landlord's ownership/management of the rental unit property that started in 2015.

The Tenant and Landlord, upon the Landlord assuming the ownership/management role, completed another tenancy agreement in 2018. The Tenant presents that this agreement in its entirety is void.

The Landlord served the One-Month Notice, at issue in this hearing, on August 25, 2025. This set the tenancy-end date for September 30, 2025. The Tenant brought this present Application to the Residential Tenancy Branch on September 5, 2025.

On page 2 of the document, the Landlord indicated the following reason:

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

The Landlord provided details on page 2:

On Apr 11, '25 the caretaker noted what looked like a litter box in the tenant's bathroom. On Apr 14, tenant was informed they did not have prior written approval, as required by the PET, section 18 of lease, which is a material term, to have any animals in their unit and were provided 2 weeks notice (deadline Apr 25) to rectify this breach of their lease or ask for an extension to do so. Tenant confirm they had cats but failed to confirm cats had been removed by deadline and a formal warning was issue on May 2, for a removal of the cats by May 9<sup>th</sup>, 2025. Warning noted that this was a material term of their lease, aligned with section 18 of the Residential Tenancy Act [sic], and failure to rectify would be grounds for termination of their lease. The tenant informed the landlord they got conflicting information from the Residential Tenancy Branch so in good will landlord held off issuing a 1-month notice to end tenancy to correct a breach of a material term after notice to do so and provided a final extension deadline of May 25 to confirm their unit was pet free. On May 25 tenant confirmed cats had been TEMPORARILY rehomed until upcoming hearing in June.

Tenant's application/hearing for allowance of the cats was dismissed with leave to reapply. After decision had been made at hearing, landlord reached out to ensure cats had now been permanently rehomed/removed from the suite on June 26<sup>th</sup> and did not hear a response from the tenant. The landlord checked with the Residential Tenancy Branch if a subsequent application had been made by the tenant on the matter but none had been made. As such, on Aug 8, tenant was given a final warning to confirm permanent removal of cats by August 13 as per section 18, PETS of their lease which requires prior landlord written approval. This final notice referenced May 2<sup>nd</sup> warning which noted failure to remove cats would be grounds to terminate lease. Tenant has not since confirm with landlords that his cats have been permanently removed from his unit and such a One Month End of Tenancy is being issued for failure to correct breach of material term after notice to do so.

In a set of written submissions, the Landlord summed up the reasons for which they seek to end the tenancy. Related to this August 25 One-Month Notice is the terms of the tenancy agreement, originally in place in 2008, and revisited by the parties in 2018 after the Landlord acquired ownership/management of the rental unit property:

- no pet damage deposit was paid, no pet agreement signed, and no record of a request for a pet stem from the original 2008 agreement
- the Tenant signed "an updated lease" in 2018 – one prior dispute resulted in an arbitrator stating this agreement was valid, while another arbitrator in a separate ruling provided that the original tenancy agreement (*i.e.*, 2008) should be in place
- both 2008 and 2018 agreements have a clause requiring prior written approval before obtaining a pet, listed as a material term of the tenancy agreement – the Tenant signed their agreement to this in 2008, and signed again in 2018
- the Tenant did not, in 2008 or 2018, obtain the Landlord's written permission for a pet in the rental unit
- as set out in the details on page 2 of the One-Month Notice, the Landlord observed cats present in the rental unit during an inspection on April 11, 2025

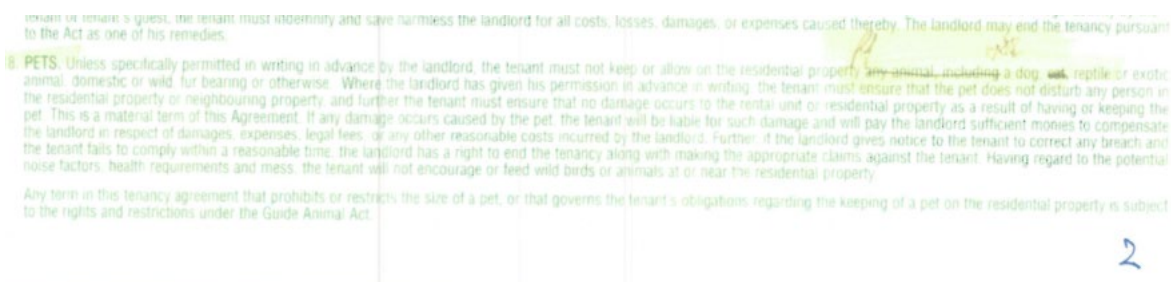
The Landlord in this written account reproduced the chain of their communication to the Tenant on this issue. Throughout the Landlord's communication about the issue – in the Landlord's evidence for this hearing – they referred to the tenancy agreement clause in question as a material term.

By the end of April 2025, the Tenant claimed in one response that an arbitrator's ruling "created a new tenancy nullifying the friendly reminder about cats". In the Landlord's filed record of "pet agreement", the Tenant on April 29 updated the shared log, stating that "The [prior arbitrator's] order created a new tenancy nullifying the friendly reminder about cats four days prior."

The Landlord queries to the Tenant and communication continued through to August. In the interim period another arbitrator decision, directly on the allowance of cats, was dismissed. Despite the Landlord's requests to the Tenant, the Tenant did not confirm removal of cats, and this was the basis for the Landlord serving the One-Month Notice to the Tenant on August 25.

The Tenant, in their communication to the Landlord (as reproduced in the Landlord's written account), maintains that their original 2008 agreement allows cats. The Tenant provided, in their evidence for this hearing, an agreement with the specific term in question amended and initialed on their carbon copy, and no pet damage deposit paid.

The clause in question, in the Tenant's written submission, has the Tenant's description that this is "the original 2008 agreement (signed April 7 and amended April 22) that was amended pre occupancy to allow cats." Moreover: "the agreement mirrors the pre-signing verbal agreement and the building policy."



The Landlord submits the 2008 original (*i.e.*, their original, non-altered carbon copy that the Landlord had on file), and the 2018 iteration updated lease "have the same language regarding pets requiring, in advance, landlord approval in writing."

The Tenant, in a specific line of questioning on this 2008 carbon copy, stated that this copy mirrored the verbal agreement they had in place with the Landlord in 2008. Also: "the Landlord would have had a faxed copy of [this] carbon copy". The Landlord maintains that their copy of the 2008 agreement does not match what the Tenant presented here. Moreover, the Landlord stated they only became aware of this carbon copy in 2025, in the Tenant's evidence from a different hearing.

The Landlord described their need to have an updated agreement in place from 2018 onwards: the Tenant signed this 2018 agreement, without alterations. The Tenant in the hearing stated they signed this updated agreement under duress.

Throughout the hearing, the Tenant maintained that a prior arbitrator declared this 2018 agreement void. In copies the Tenant provided, and in every reference they made to the

Landlord's arrangement for a subsequent agreement, they stated the agreement was void. The Tenant submitted that this extended even to the Landlord's series of queries and notices about the pet issue, owing to a prior arbitrator's statements regarding the 2018 agreement.

In a summary statement in their written account, the Tenant provided the following:

The valid agreement going forward is the original 2008 agreement (signed April 7 and amended April 22) that was amended pre-occupancy to allow cats. The agreement mirrors the pre-signing verbal agreement and the building policy, The agreement sees the pet deposit waived as an incentive.

Further:

[The Landlord] attempts to dispute the validity of the [April 2008] amendment by saying their copy, the ink copy, is missing the amendment and the Landlord initials do not match those of their representative of the time.

The carbon copy [reproduced above] is equal to the ink copy and was the only copy available to amend on occupancy day, The agreement's amendment was initialed by the Landlord's representative who was present April 22 [2008]. The representative initialed the amendment and faxed a copy to the Landlord's office. . .

The Landlord received copies of the amended agreement, at their request, in September 2011 and [the Landlord S.S.] June 2020 without questioning the amendment. [The Landlord S.S.] also received copies without question June 2018 and March 2025.

The Tenant also illustrated how the Landlord in 2020 reported the relevant pages (*i.e.*, containing the agreed-to amended clause) missing; the Tenant provided a further copy. This June 10, 2020 email is in the Tenant's record. Stated thus, the Tenant maintains the Landlord was presented with copies of the amended 2008 agreement. On June 18, 2020, the Tenant advised the Landlord:

I consider the agreement . . . signed by both parties on April 7, 2008 to be the agreement of record. Any copy of duplicate, since that date, that changes or adds a material term I consider invalid and unenforceable.

Throughout their submissions and in their hearing statements, the Tenant referred to the Landlord's bad faith in seeking to end the tenancy for this reason. There are overlapping issues in this tenancy, and strained communication throughout. In a succinct statement the Tenant sent to the Landlord on September 8, alleging the Landlord is manipulating the situation:

Case in point you deliberately served me an eviction notice, for not removing an emotional support cat, based on a void (as equivalent of fraud) non-existent tenancy agreement and a void warning. This was an unlawful attempt to confuse me and have me vacate the rental unit. My valid agreement allows cats.

The Tenant also provided other information about the rental unit property, to illustrate that other residents have cats, and other vacancies, as advertised, make no mention of restrictions, even appearing as “pet-friendly.” Though the caretaker may have entered the Tenant’s rental unit over the course of the tenancy, the issue never arose previously,

The Landlord was aware of the Tenant’s removal of the cats in question, though only as a temporary measure before a prior June 3 hearing. As they showed in the evidence, the Landlord continued to seek confirmation from the Tenant that the cats are removed, yet the Tenant would not confirm, serving as the basis for the Landlord serving the One-Month Notice.

## **Analysis**

The Landlord signed the One-Month Notice on August 25, 2025. The Landlord provided the document to the Tenant via email. The Tenant filed the Application at the Residential Tenancy Branch on September 5. Under s. 47(4) of the *Act*, a tenant must apply to dispute this type of tenancy-end notice within 10 days of receiving it.

While the Landlord presented that the Tenant filed an application more than 10 days after the Tenant received the One-Month Notice via email, I find the Tenant correctly accounted for the deemed service provision via email<sup>1</sup>: a record is deemed received on the third day after it is emailed. There was no evidence that clearly showed the Tenant received the document via email on the day the Landlord sent it via email. With the Tenant filing their Application on September 5, I find the Tenant disputed the One-Month Notice correctly in time. The conclusive presumption in the *Act* is not applicable in this scenario; there is no default order of possession to the Landlord for this reason.

In this matter, the onus is on the Landlord to prove they have a valid reason to end the tenancy. The *Act* s. 47 sets out the reasons for which a landlord may issue a tenancy-end notice for cause. This includes the single reason indicated on the One-Month Notice the Landlord served to the Tenant here: because the Tenant breached a material term of the tenancy agreement and did not correct the situation within a reasonable time after the Landlord’s written notice to do so.

The Residential Tenancy Branch has in place a series of policy guidelines, which provide statements of the policy intent of the legislation, intended to help parties to an application understand issues that are likely to be relevant. On this issue, the policy guideline<sup>2</sup> provides

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<sup>1</sup> s. 44 of the *Residential Tenancy Regulation*

<sup>2</sup> *Residential Tenancy Branch Policy Guideline 8: Unconscionable, Unlawful, and Material Terms*

that for a landlord to end a tenancy, in a hearing an arbitrator must find that all conditions are satisfied before upholding a tenancy-end notice.

The Landlord emphasized, in all communication to the Tenant about the issue, that the matter was a breach of a tenancy agreement material term. The Landlord relied on the recreated 2018 tenancy agreement, yet also showed the agreement they had on file was that of 2008, without the key amendment/notation the Tenant disclosed to them more recently.

I find the Landlord dutifully informed the Tenant of a material term breach; moreover, in communication the Landlord referenced their discovery of the issue, and set a timeline for the Tenant to rectify the issue. I find this is all as specified in the policy guideline specific to material terms.

The definition of “material term” is not delineated in the *Act*. The policy guideline provides the following:

A material term is a term that the parties both agree is so important that the most trivial breach of that term gives the other party the right to end the agreement.

Further, the policy guideline provides that an arbitrator, in approaching an issue, will consider the true intention of the parties in determining whether or not the clause in question is a material term of the agreement. Simply because the term is labeled as material is not decisive.

In line with the onus on the Landlord to show they have a valid reason to end the tenancy, I find the Landlord must support the proposition that the term in question was *material*. I note each iteration of the agreement, including the amended/notated 2008 agreement the Tenant presented, states: “This is a material term of this Agreement.”

Fundamentally, I find the parties were not in agreement on the term in place being *material*; however, I appreciate the strict explanation thereof is not the subject of discussion when parties are signing an agreement. I find the term ‘material’ refers to the basic substance of the agreement, and must be something the parties have explicitly agreed is significant, central, and important to the agreement, such as rent payment. Moreover, whether a clause is material is determined by the circumstances surrounding the creation of the agreement.

I find the Tenant presented sufficient evidence to show the diminished importance of the term in the overall scheme of the agreement. Given that cats are specified as being excluded (that is, an *exception*), I grant that an adaptable agreement about pets was in place; I find this detracts from the notion that the term is a non-negotiable part of the agreement (*i.e.*, a material term). I find this was in place since 2008; I accept the Tenant’s testimony that this clause was

part of a verbal agreement that was then amended/notated in their individual copy (albeit in a more haphazard fashion) at that time.

I find the Tenant was consistent in their messaging to the Landlord that the agreement in 2008 was amended, thereby allowing for cats. This was not rectified owing to the difficult communication between the parties in place throughout 2025, with multiple issues being subject to the dispute resolution process. Stated thus, the understanding about the importance of this term, whether it was material, or became material at some point, was not rectified.

Each party submitted on the validity of a 2018 redrafting of the agreement. A previous arbitrator in their ruling referred to the legal principle of *contra proferentem*. I find this concept has limited applicability in this current scenario. I find the issue itself, at this stage, is not an ambiguous term in the agreement: while the Landlord maintains “pets” is all-encompassing, the Tenant submits that cats are specifically excluded. What is ambiguous, rather, is the specific exclusion being part of the agreement, rather than the term itself.

In sum, I find the Landlord did not show, on a balance of probabilities, that the parties agreed on the specific term in question being *material*. I find it more likely that an exception was in place from the beginning of the tenancy – on this point, I accept the Tenant’s version of events. A subsequent agreement, not specifically addressing the exception, does not supplant what was in place for this Tenant since the start of the tenancy: some arrangement allowing for cats in the rental unit. Unfortunately, this had to come up in the context of other issues, all within a fairly short amount of time in 2025, thus the messaging on this issue was unclear, and trust had eroded between the parties.

I find that there is no agreement on the substance of the contract term in question, nor whether it was material. There is no meeting of the minds on the substance of this individual term. For this term to be valid, each party must understand and agree to it, both in terms of the particular content, and the consequences of a breach. This does not equate to the entire tenancy agreement being void, nor does it void communication from the Landlord over a certain timeframe (based on one-sided interpretation of arbitrator findings) as the Tenant repeated in their submissions for this hearing.

The Tenant, who was a direct party in the signing of the 2008 agreement, presented that the term was amended, specifically to allow for cats. The Landlord was not a party to the creation of the agreement. I give the Tenant’s recall and timeline more weight in this scenario, over that of the of the Landlord who relied on the fact that the Tenant never paid a pet damage deposit which was never explicitly waived. Additionally, I give weight to the fact that this was never an issue in the ensuing years, which is a significant period of time, even from 2018 onwards, as a carryover from the Landlord taking on this role in 2015. I find it unlikely, in fact,

that the Tenant had a significant number of cats in place without the Landlord's knowledge over this longer term. I find it was prudent, in these circumstances, for the Landlord to inspect the rental unit when they did not receive confirmation about the pets' removal from the Tenant; however, I appreciate the entire trust element of the relationship had eroded, making a visit of this type well-nigh impossible.

In summary, though the term itself is labelled as 'material' in the tenancy agreement (which is itself a pre-printed document form), I accept the Tenant's testimony/evidence that the agreement was amended in line with a verbal agreement, and the Tenant remained with cats in the rental unit for a long period over the entire course of this tenancy. I find there is no agreement on this specific term in substance, or whether it is a material term, such that a breach would constitute a reason to end the tenancy.

For the reasons set out above, I grant the Tenant's Application for cancellation of the August 25, 2025 One-Month Notice.

I dismiss the Landlord's Application for an order of possession without leave to reapply. There is no recompense to the Landlord for the Application filing fee.

### **Conclusion**

For the reasons set out above, I order the One-Month Notice is cancelled. The tenancy remains in full force and effect.

I dismiss the Landlord's Application for this reason, without leave to reapply.

I make this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: December 8, 2025

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Residential Tenancy Branch