



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a notice to end tenancy for cause.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on November 12, 2010. Mail receipt numbers were provided in the Tenant's evidence. The Landlord appeared and confirmed receipt of the hearing documents.

Both parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issues(s) to be Decided

1. Was the 1 Month Notice to End Tenancy issued in accordance with the *Residential Tenancy Act*?
2. If not, is the Tenant entitled to an Order to cancel the Notice?

### Background and Evidence

I heard undisputed testimony that the parties entered into a verbal tenancy agreement effective near the beginning of December 2009. Rent is payable on the first of each month in the amount of \$500.00 and the Tenant paid a security deposit of \$250.00.

At the onset of the hearing only the Landlord was present. He testified that he attended the hearing to have the eviction of the Tenant enforced. He confirmed that he served the Tenant with two pages of the 1 Month Notice to End Tenancy, in person, on November 2, 2010.

Six minutes into the hearing the Tenant signed into the teleconference and stated that he was late because he had trouble with his pass code. After introducing myself, I informed the Tenant that the Landlord was present and informed the Tenant of the Landlord's testimony thus far.

The Landlord continued with his testimony for the reasons for issuing the Notice to End Tenancy. He stated the Tenant has been affecting the quiet enjoyment of the other tenants and that he continues to disregard the no pet and no smoking rules of the tenancy. The Landlord spoke of previous occurrences where he had to speak to the Tenant about having numerous guests and up to five cats in the unit. Then recently the Tenant was found to have dogs in the unit. He has also spoken to the Tenant about not smoking in the rental unit and he continues to do so which negatively affects one of the tenants who is asthmatic. He argued that the Tenant has been told on several occasions that this is a no smoking building. The Landlord stated the police have been called on several occasions and the Tenant's behaviour is indicative of drug selling and drug usage.

The Tenant testified and confirmed that the Landlord personally served him with two pages of the 1 Month Notice to End Tenancy for cause. He argued that the neighbour has a personal complaint about him and that she is the one who keeps calling the police for no reason. He stated that he has never been arrested and nothing has ever happened when the police have been called. He confirmed he had several cats in the rental unit and when the Landlord told him it was a no pet building he took care of his guest and the cats. He acknowledged that the Landlord told him at the beginning of the tenancy that it was a no smoking building and he confirmed that he continues to smoke in his rental unit but that he stands by a window. He confirmed there were dogs in his

rental unit recently and argued that they were only guests they were not living there. He claimed the dogs only spent one day and one night in the rental unit. He claims the Landlord has not spoken to him on a monthly basis about issues and while there have been three or four times the police have attended they have not been there six times.

The Landlord stated the Tenant has not paid his rent for December 2010 and he wishes to proceed with the eviction. I advised the Landlord that I could not make a determination about unpaid rent at this hearing as this was the Tenant's application to cancel the Notice. I explained to the Landlord that he is at liberty to file his own application for unpaid rent if he wishes to proceed with that claim.

### Analysis

Upon review of the 1 Month Notice to End Tenancy issued November 2, 2010, I find the effective date of the Notice not to be completed in accordance with the requirements of the Act. The effective date of the Notice is automatically corrected to December 31, 2010 in accordance with section 53 of the Act.

I find the reasons for issuing the Notice meet the requirements of section 47 of the Act for cause and I also find that the Notice was served upon the Tenant in a manner that complies with the Act. Upon consideration of all the evidence presented to me, I find the Landlord had valid reasons for issuing the Notice. Therefore I dismiss the Tenant's application to cancel the 1 Month Notice to End Tenancy issued for Cause.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Based on the aforementioned I hereby approve the Landlord's request to proceed with the eviction and I grant the Landlord an Order of Possession effective December 31, 2010 at 1:00 p.m.

Conclusion

The Landlord's decision will be accompanied by an Order of Possession effective **December 31, 2010 at 1:00 p.m.** after service to the Tenant. This Order must be served to the Tenant and may be filed in Supreme Court and enforced as an Order of that Court.

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 03, 2010.

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Dispute Resolution Officer