



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNC, RR, PSF, LRE, FFT

### Introduction

The Tenant filed an Application for Dispute Resolution on December 9, 2022 seeking:

- cancellation of the One Month Notice to End Tenancy for Cause (the “One-Month Notice”);
- a reduction in rent for repairs/services/facilities agreed upon but not provided;
- provision of services/facilities required by the tenancy agreement/law;
- suspend/set conditions on the Landlord’s right to enter the rental unit;
- reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on April 20, 2023.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing.

The Tenant stated that they delivered notice of the dispute and their evidence via registered mail; the Landlord confirmed they received this. The Tenant confirmed they received evidence from the Landlord in person on April 4, 2023.

### Preliminary Matter –unrelated issues

The *Residential Tenancy Branch Rules of Procedure* permit an arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes ‘related issues’, and Rule 6.2 provides that an arbitrator may refuse to consider unrelated

issues. It states: “. . . if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hear other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.”

As I stated to the parties in the hearing, the matter of urgency here is the possible end of this tenancy. I find the most important issue to determine is whether or not the tenancy is ending, based on One-Month Notice issued by the Landlord.

I dismiss the other pieces of the Tenant's Application, with leave to reapply. The issues for this hearing are listed below.

#### Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the One-Month Notice?

If unsuccessful, is the Landlord entitled to an order of possession, as per s. 55 of the *Act*?

Is the Tenant entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

#### Background and Evidence

The Tenant provided a copy of the tenancy agreement in place between the parties, signed on March 20, 2022. The Landlord provided that they signed the agreement, despite the Tenant's copy not bearing the Landlord's signature. This agreement set the start-of-tenancy date on March 28, 2022, for the amount of \$1,400. The Tenant paid a security deposit and a pet damage deposit at the start of the tenancy.

An extra page addendum forms part of the agreement. This provides for the Tenant not getting any new pets without the Landlord's written permission (item 6) and setting the responsibility of the Tenant to make sure their animals are in control and “safety of others is maintained” (item 15).

The Landlord signed the One-Month Notice on November 29, 2022, for the move-out date of December 31, 2022. They provided evidence to show they served this document to the Tenant by attaching it to the door of the rental unit on November 29.

On page 2 of the document the Landlord checked the reasons for the One-Month Notice:

- ☐ Tenant or a person permitted on the property by the tenant
  - ☐ seriously jeopardized the health or safety of another occupant or the landlord
  - ☐ put the landlord's property at significant risk
- ☐ Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.
- ☐ Tenant knowingly gave false information to prospective tenant or purchaser of the rental unit/site or property/park.

The Landlord provided details on page 2:

6. Tenant may not get any new pets without written permission i.e., 7 puppies also tenant verbally agreed to keep 2 lg dogs out of the house – was repeatedly asked to remove them, Now Female is in all time with puppies.

15. Tenants make sure their animals are in control & safety of others is maintained

tenant did not allow me I was unable to inspect room dogs [were] in as it was unsafe.

Tenant has recently put signs to warn that the dogs are unsafe.

Landlord had rented unit to people who could animal sit for her and does not feel comfortable using them for this.

Tenants are constantly unhappy with the house wanting a woodstove installed, new windows etc. even though they [were] happy when they rented it

In the hearing, the Landlord explained that the issue arises from “pet breaches”. The Landlord and their guests had issues with the “animals that the Tenant has”, that are “not maintained in such a way that they are safe.” The Landlord’s concern is that the dogs may jump the fence used to keep them enclosed. The Landlord stays away from this area of the property where the Tenant resides because of this. As well, prior to the Landlord issuing the One-Month Notice, the Tenant’s dog had puppies, and as of the date of the hearing the “Tenant hasn’t sold one [remaining] puppy.”

In the Landlord's evidence, they provided photos of a sign that designates the dogs as dangerous, an image of the dogs "barking at fence", and an image of the litter of puppies. As well as a number of tense emails they had with the Tenant, the Landlord included a letter from March 17, 2023 wherein the referred to "a 10 day reminder to rehome your last puppy . . . as you were not given written permission to have him/her."

The Landlord also referred to their communication and in-person interactions with the Tenant that were fraught with tension. In a written account, a witness described their visit to the rental unit with the Landlord to resolve an outside water issue.

The bulk of the Landlord's document evidence consists of messages from the Tenant, harsh in tone. There are references to the Landlord's limited intellectual capacity to understand what the Tenant is trying to communicate about the need for repairs at the rental unit, beginning in December 2022. At one point in early January, the Tenant and Landlord both had the need to communicate via an RCMP officer, who instructed the Landlord to end all communication with the Tenant.

By March 17, 2023 by written notice of their visit outside the rental unit with a repairperson, the Landlord informed the Tenant of their previous 10 day reminder to rehome the last remaining puppy. This was the Landlord's "10-day official notice to rehome your puppy, as you were not given written permission to have him/her."

In their submissions, the Tenant explained the situation with the dogs, provided in a summary statement labelled as "Appendix B". They had a discussion with the Landlord at the start of the tenancy and the Landlord took their time, and "made [their] decision fully informed" on accepting the Tenant to live at the rental unit. The Tenant made their intentions known and the Landlord was aware that the situation involved puppies.

Then:

Within weeks of her [accepting] our money all of a sudden [the Landlord] has [no] recollection of the puppy conversation and started accusing us about breaking the agreement about dogs in the house which we did not and would not ever have agreed to. We paid pet deposit. End of story.

The Tenant included records about messages to and from the Landlord about the dogs' presence in the rental unit, around the rental unit property in a shared field, and also having a batch of puppies. This was a separate conversation thread that the Tenant reproduced in its entirety, drawing attention to the Landlord's statements that the Tenant submits are contradictory to the information that was in place at the start of the tenancy. These messages continued through June to August 2022. The Landlord notified the Tenant of a "final warning"

In the hearing, the Tenant stated it was clear at the start of the tenancy that they moved in with 4 dogs and 2 goats. They informed the Landlord that the particular kind of dogs they had were for breeding, and they did intend to do that. On April 23, 2022 the Landlord asked if the dogs had bred, and the Tenant responded to say “not yet”, making the Landlord fully informed about the Tenant’s intentions with the dogs.

In the hearing the Tenant paraphrased the Landlord’s statement that ‘one litter is fine, I just don’t want more in and out of the house’, with the apparent aim of care of the interior of the home.

Upon the Landlord making an issue about the litter in November 2022, the Tenant responded to the Landlord to say they were upfront about the litter, and their intentions, at the start of the tenancy. The Landlord’s warning meant they were left with only 10 days to deal with a litter of puppies, with no options where to place them. They kept one puppy, and this animal replaced a dog they had at the start of the tenancy that had died, equating to the same number of pets they had as at the start of the tenancy, thereby not breaching any part in the agreement.

In the latter part of the hearing, the Tenant attempted to negotiate a delayed end to the tenancy, knowing that they intended to move out from the rental unit because of the ongoing tension and difficulty in communicating with the Landlord. The Landlord conceded on certain extra months, with the incentive of rent-free months added. The parties could not reach an agreement on a final end-of-tenancy date.

### Analysis

The *Act* s. 47 of the *Act* states, in part:

**47** (1)A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant . . . has

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant . . .

(iii) put the landlord’s property at significant risk

. . .

(h) the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so
- ...
- (j) the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property

In this tenancy, the Landlord is taking issue with the Tenant's dogs. I analyze each of the reasons the Landlord indicated on the One-Month Notice:

- With regard to health/safety and risk to the Landlord's property, I find what the Landlord is targeting here is the dogs' presence and the risk that the dogs could scale the fenced enclosure that is in place, thereby harming the Landlord, their family members, or their guests. I find this is not a tangible concern. There is no record of the Landlord raising this as an issue with the Tenant from the start of the tenancy, so I find the concern is dubious at this juncture. There is no proof of the dogs having the ability to get around the fence. I find the Tenant is aware of the breed of dog and all aspects of the dogs' capabilities and would keep dogs in a suitable enclosure for the dogs' own safety and well-being. I find this indicated reason on the One-Month Notice is invalid. I note the Act specifies something that "seriously jeopardized the health or safety" and I find there was no palpable risk of harm to others' physical safety or the Landlord's property.
- With regard to the tenancy agreement and the terms therein, the Landlord deemed the terms they specified on the One-Month Notice to be "material terms." Indicating that a term in the tenancy agreement is "material" at the time does not necessarily make it so. I consider the Landlord did not deliver suitable written notice to the Tenant identifying the term in question as a material term in advance, and did not give the Tenant a reasonable amount of time to rectify the situation.

I also accept the Tenant's evidence that the Landlord was aware of the Tenant's intentions with breeding, and there is a discrepancy between what the Landlord was aware of at the start of the tenancy, and what they later claimed was a breach of a material term of the agreement. I can conclude the Tenant had different messaging from the Landlord in the past about the dogs.

On the One-Month Notice the Landlord cited the Tenant's verbal agreement to keep dogs out of the house. Of dubious origin, I find this is not a material term of

the agreement, with the Tenant stating that they would never agree to such a notion.

I find one of the specific terms in question (that “Tenants must make sure their animals are in control and safety of others is maintained.”) was not breached, without proof of some incident involving a loss of control of the dogs, or some violation of others’ safety.

I find the other specific term in question (Tenant may not get any new pets without written permission.) was not breached. I find as fact the Landlord was aware of the Tenant’s intention to breed the dogs from the beginning of this tenancy.

- The Landlord did not point to specific evidence about the Tenant giving false information to prospective tenants or a purchaser. The onus is on the Landlord to prove that the indication on the One-Month Notice is valid, and the Landlord did not present evidence to show this.

In this tenancy, I find the Tenant has engaged in a pattern of bullying in their form of communication. I find their promises of continually making things difficult for the Landlord amount to threats. The communication is extremely disrespectful, and that is a very serious matter. The Tenant utilizes insult, profanity, a chiding tone, and promises of continual difficult behaviour, which is a definitive example of the word spite and verbal assault, indicating maliciousness which is absolutely inappropriate. This is particularly egregious after a local police officer mediated and provided coaching to the parties in mid-March.

On the One-Month Notice, the Landlord did not specify the separate issue of significant interference or unreasonable disturbance (as per s. 47(1)(d)(i) of the *Act*). Had they done so, I would have ended the tenancy on that basis. I caution the Tenant that such behaviour can end a tenancy, either for cause (as in s. 47), or even in an expedited fashion (as in s. 56).

The Tenant was successful in this Application; therefore, I grant the Tenant is entitled to recover the \$100 filing fee paid for this application. I authorize the Tenant to withhold the amount of \$100 from one future rent payment.

Conclusion

For the reasons outlined above, I so order the One-Month Notice that the Landlord served on November 29, 2022 is cancelled.

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

Dated: April 28, 2023

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Residential Tenancy Branch