



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

Dispute codes: CNC

### Introduction

This was the tenant's application to cancel a one month Notice to End Tenancy for cause. The hearing was conducted by conference call. The tenant participated as did several representatives of the landlord and the strata corporation.

### Background and Evidence

The rental unit is an apartment in a strata complex. There is no dispute that the tenant was served with a one month Notice to End Tenancy for cause dated August 13, 2008 that required the tenant to move out by September 30, 2008. The stated reason for giving the Notice was that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The evidence presented by the landlord consisted of excerpts from the strata manager's noise complaint log. The excerpts recorded complaints in July and August concerning yelling and swearing, and the sound of music and bongo drums. The source of the complaints was not disclosed and no occupant gave evidence of having been disturbed by the tenant. The other complaint concerned a water leak into the suite below the rental unit on August 11, 2008. The leak was alleged to have been caused by the improper use of the shower or tub in the rental unit by the tenant or another occupant of the unit. According to the landlord the strata chairperson attended at the rental unit and requested that the shower be turned off the chair person was told by an occupant, not the tenant that if there were any complaints to put them in writing. The water was not immediately turned off.

It was suggested by the landlord's contractor that the leak resulted from a lack of caulking around the tub and baseboards and this, together with the slope of the floor and the occupants' shower habits, was the cause of the leak.

#### Analysis and conclusion

The noise complaints concerning the tenant are from an undisclosed source. As was pointed out in a previous decision concerning this tenancy, the burden is on the landlord to prove his case and the tenant has the right to know the allegations and the details surrounding them in order to defend herself. I find that the anonymous complaints of noise set out in a document from a third party do not constitute sufficient proof of cause to warrant bringing an end to the tenancy. I accept that a water leak took place. Apparently it has not recurred. The tenant may have been partially responsible for the leak, but that in itself does not amount to cause for ending the tenancy. I therefore direct that the Notice to End Tenancy be, and is hereby cancelled. This decision does not preclude the landlord from issuing a further Notice to End Tenancy and making application for an order for possession founded upon proper evidence. The tenant did not request payment of the filing fee and no fee is awarded.

Dated September 19, 2008.