

## **DECISION AND REASONS**

Dispute Codes: CNC

### **Introduction:**

This was an application by the tenant to cancel a Notice to End Tenancy for Cause. The hearing was conducted by conference call. The tenant participated in the hearing and was represented by an advocate. The landlord's manager participated together with an observer. A witness gave evidence for the tenant.

### **Background and evidence:**

The rental unit is a room in a rooming hotel in Vancouver. The tenancy began in or about 2002. The tenant has at various times performed maintenance work for the landlord, including the former landlord of the building.

On August 11, 2008 the landlord gave the tenant a one month Notice to End Tenancy for cause. The cause alleged was that the tenant had caused damage to the rental property by turning on a cold water valve and thereby allowed water to flow out of a ruptured pipe. The landlord's representative testified that the pipe had ruptured at the beginning of August causing a flood and water damage to a room on the second floor of the rental property. He said that the water valve was closed by the landlord and the occupants of the second floor of the building, including the tenant, who were affected by the closure, were given written notice to use washroom and toilet facilities on other floors of the building. The landlord's representative testified that on August 10, 2008 the tenant turned on the closed water valve without authorization and this caused additional water damage. The landlord's representative stated that the tenant's actions in opening the valve had been recorded on a video monitoring system and he had reviewed the tape; the tape showed the tenant turning the water valve. A review of the tape did not show that anyone other than the tenant had been at the water valve at any relevant time. According to the landlord's representative he attempted to preserve a copy of the video footage, but was unsuccessful in doing so.

The tenant testified that he heard hissing, and gurgling noises emanating from the cold water tap in his room and observed water flowing from the tap. He inspected the water valve, but he said that he did not turn it on as alleged by the landlord. He inspected the pipe because he was familiar with the building and had done maintenance work in the past.

### Conclusion

In the absence of any video evidence I am left with the testimony of the landlord's representative concerning his observations of a video tape and with the evidence of the tenant who emphatically denied having opened the valve in question. No evidence was presented to suggest that the tenant might have a motive to act maliciously. He is a long standing tenant, who has been responsible for maintenance in the past. I find that the landlord has failed to establish, on a balance of probabilities, that the tenant performed the act complained of. I therefore grant the tenant's application and direct that the Notice to End Tenancy dated August 11, 2008 be, and is hereby cancelled. No filing fee was paid for this application and no filing fee is awarded.

Dated September 16, 2008.