



# Dispute Resolution Services

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

## Decision

Dispute Codes: MT, CNC, FF

## Introduction

This matter dealt with an application by the Tenant for an order extending to time to apply to cancel a One Month Notice to End Tenancy for Cause. At the beginning of the hearing, the Landlord waived the Tenant's late filing of her application and agreed to proceed with her application to cancel the Notice to End Tenancy for Cause. The Tenant also applied to recover her filing fee for this proceeding.

## Issue(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

## Background and Evidence

This tenancy started on June 1, 2003. The Landlord served the Tenant in person on November 29, 2008 with a One Month Notice to End Tenancy for Cause dated November 29, 2008. The Notice alleged that the Tenant had significantly interfered with or unreasonably disturbed the Landlord or another occupant of the rental property and that the Tenant had caused extraordinary damage to the rental unit.

The Landlord said that on November 12, 2008, she received a complaint from another tenant who lived below the Tenant that she was making excessive noise like throwing pots and pans around and was yelling and swearing. The other tenant contacted the RCMP who came to the rental unit but the Tenant would not answer her door. The Landlord said she spoke to the Tenant the following day and the Tenant claimed she was extremely upset because she had been broken into and robbed approximately 2 weeks earlier. The Landlord gave the Tenant a Warning letter dated November 14, 2008 that advised her she was in breach of a material term of the tenancy agreement not to unreasonably disturb another occupant and that the tenancy could be terminated if there were further problems of this nature. The Landlord admitted that there were no further noise disturbances.

The Landlord claimed however, that she arranged with the Tenant to do an inspection of the rental unit on or about November 16, 2008 to assess the damage from the break in.

At that time the Landlord noticed excessive damage to the walls, doors and carpets that the Tenant admitted to have caused. The Landlord said she took some pictures of the damage and shortly thereafter served the Tenant with the Notice to End Tenancy for Cause.

The Landlord had a restoration company do a further inspection of the rental unit on January 20, 2009 to assess the damage and determine the cost of repairs. The Parties agree that as a result of a cleaning product with bleach used by the Tenant over a prolonged period of time, the paint and drywall in the hallway and bathroom have been damaged, 3 doors and 3 bi-fold closet doors need to be replaced, the carpet in the hallway needs to be replaced, baseboards need to be replaced and the kitchen cabinet doors and countertop need to be replaced. The Landlord claims that the Tenant is also responsible for replacing a shower surround, flooring in the bathroom and fixing the bathroom ceiling (which the Tenant disputes). The Landlord disputed that the damages were the result of reasonable wear and tear. She said the kitchen cabinets, countertop and paint were new in 2000 (with some additional painting in 2002).

The Landlord said there was no urgency to remove the Tenant but that the repairs needed to be made as soon as possible so that the damages do not get worse and permeate the walls. The Landlord said she was willing to allow the Tenant to continue living there after repairs were completed but only if the Tenant agreed to pay for the repairs and agreed not continue using the harmful cleaning product. The Landlord estimated that the repairs would cost at least \$10,000.00 but said that she spoke with the Tenant about it and the Tenant was unwilling or unable to pay for the repairs. The Landlord admitted that she could apply for a monetary order for repairs without ending the tenancy.

The Tenant said she had concerns that the Landlord was trying to get her to pay for things that she was not responsible for. The Tenant also claimed that some of the materials used in the rental unit "were not fancy" and suggested that some of the condition issues were the result of reasonable wear and tear. The Tenant argued that the Landlord's previous property manager had done an inspection of the rental unit in November of 2007 when the unit was in the same condition but said nothing about it at that time.

### Analysis

I find that there is insufficient evidence to support the Notice to End Tenancy on the grounds that the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord. The Landlord gave the Tenant a written warning about a single incident and admitted that there were no further incidences.

I also find there is insufficient evidence to support the Notice to End Tenancy on the grounds that the Tenant caused extraordinary damage to the rental unit. Throughout

the hearing, the Landlord claimed that the real problem was that she wanted the Tenant to repair or pay for damage to the rental unit (which is a separate and distinct ground of cause). The Landlord claimed a number of times that there was no urgency in the Tenant leaving and that she was welcome to stay if she paid for repairs. Consequently, I conclude that while the damage to the rental unit is significant and will cost approximately \$10,000.00 to repair, I find that it is not extraordinary. Indeed, if it were extraordinary, it is reasonable to expect that the Landlord would want to make repairs on an urgent basis and be less inclined to allow the Tenant to stay.

As a result, I find there is insufficient evidence to support the Notice to end Tenancy for Cause dated November 29, 2008 and it is cancelled.

### Conclusion

The Tenant's application is allowed. The Notice to End Tenancy for Cause dated November 29, 2008 is set aside and the tenancy will continue. The Tenant's application to recover the filing fee is dismissed.