



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            CNC & RR

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This is a request for an order to have a Notice to End Tenancy cancelled and for a reduction in rent; however at the hearing the applicant's stated that they are withdrawing the claim to have a rent reduction.

### Background and Evidence

The landlords testified that:

- They have had numerous complaints from other tenants, about the actions of this tenant.
- Other tenants complained that this tenant is physically aggressive, and knocks into other tenants as she passes.
- Other tenants complained that the tenant spends many hours in the shared bathroom making it difficult for the other tenants to be able to use the bathroom.
- Other tenants complained that the tenant does laundry for long periods of time making it difficult for the other tenants to have time to do laundry and also does laundry at late hours.

- Other tenants have complained that the applicant has been cooking in the middle of the night and appeared spaced-out and unsteady on her feet.

The co-tenant and witness for the landlord testified that:

- The applicant acts in a very aggressive manner and has on two occasions body checked him.
- One of the occasions he believes was an accident but on the other occasion the applicant purposely ran right into him.
- There have been numerous other occasions where, he had he not taken evasive action, the applicant would have run into him again.
- The applicant often stays in the bathroom for hours at a time making it so that others cannot use the bathroom.
- The applicant often uses the laundry facilities for long periods, doing small loads and making it difficult for the other occupants of the rental property to find time to do their laundry.
- The applicant often looks unstable on her feet.

Landlord is therefore asking that the Notice to End Tenancy be upheld because the other occupants of the rental unit are being unreasonably disturbed by this tenant and because he also believes there is a safety issue when the applicant is cooking in the middle of the night and appears unsteady on her feet.

The advocate for the applicant argued that:

- The tenant is unstable in her feet due to an injury that occurred this winter when she slipped in the snow.
- If the applicant has bumped into other tenants it has not been due to aggression it's been due to being unstable on her feet and being a very large person.
- There is nothing in the tenancy agreement that limits the amount of time she can spend in the bathroom, laundry room, or kitchen area.

- There's nothing in the tenancy agreement that says that she is not able to cook at night-time.
- The applicant has never left the stove on in the rental unit and therefore she fails to see what the safety issue is.
- They believe this notice is been given because the tenant complained about mice and the notice has been given as retaliation.
- The only direct evidence the landlord has produced about aggression by the applicant is by one witness saying that she purposely banged into him on one occasion only.
- There are two bathrooms in the rental unit and therefore if the applicant is spending a long time and one bathroom the other bathroom is always available.
- The applicant has had to do her laundry when she can find time to do so as the laundry is not only shared by the tenants of this unit, but is also used by the tenants of another unit.

The advocate for the tenant therefore argues that the landlord has not met the burden of proving that this tenant has been unreasonably disturbing the other occupants of the rental unit.

The advocate for the tenant also argued that the landlord appears to be discriminating against the tenants disability because he found out she's taking some medications.

The tenant and the advocate are therefore asking that the Notice to End Tenancy be set aside and that is tenancy be allowed to continue.

## Analysis

It is my decision that the landlord has shown that the actions of this tenant are unreasonably disturbing the other occupants of the rental property.

This is a rooming house where numerous occupants share two bathrooms, laundry facilities, and kitchen facilities and as such the parties must be considerate of others when using those



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facilities. It's not reasonable for one tenant to use the facilities for such a long time that it denies reasonable access to the other occupants of the rental property.

In this case it is my decision to the landlords have shown that the applicant has been denying reasonable access to the bathroom facilities, laundry facilities, and kitchen facilities, to the other occupants of the rental property.

It is also my decision to the landlord has shown, on the balance of probabilities, that the applicant has been acting in an aggressive manner, and although there has only been one witness testified directly to this aggression, I accept the landlords claim that they have had numerous complaints.

Therefore it's my decision of the landlord does have reasonable grounds to end this tenancy.

## Conclusion

The application to have the Notice to End Tenancy cancelled is dismissed and I've issued an Order of Possession to the landlord for 12 noon on May 31, 2009.

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: May 25, 2009.

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Dispute Resolution Officer