



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, MNDC, O

### 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 to have a Notice to End Tenancy cancelled and a request for an order for the respondent to pay \$3000.00 to the applicant.

### Decision and reasons

#### Request to have a Notice to End Tenancy cancelled

The landlords testified that an invited guest of the applicant instigated a physical altercation with another tenant in the rental complex and as they feel this is a serious matter that puts the other tenant's safety at risk, they have given the applicant a notice to end this tenancy.

Residential Tenancy Branch  
Ministry of Housing and Social Development

It is my decision however the landlords have not met the burden of proving that the person who was in the alleged physical altercation had been an invited guest of the applicant.

The applicant testified that the person that the landlord claims was in an altercation with another tenant, was not her invited guest at the time of the alleged altercation and although the person alleging the altercation testified that he had seen this person in the applicant suite on and off throughout the day, even he testified that at the time of the alleged altercation the person had simply pulled into the applicants parking space.

The person who is alleged to have caused the altercation testified that he was in fact not there to visit the applicant but had come to visit some other friends who lived in the complex and that the only reason he had parked in the applicants parking space was that he knew she did not have a car and that the space would therefore be vacant.

Further since no one witnessed the alleged altercation, the landlords have not met the burden of proving that there was a physical altercation between these parties.

The burden of proving the reasons given for ending in tenancy lies with the landlord and in this case it is my decision that the landlords have not met the burden of proving that the person in the alleged altercation was an invited guest of the applicant.

Therefore it is my decision that the Notice to End Tenancy that was given to the tenant on June 19, 2009 is hereby cancelled and this tenancy continues.



## Dispute Resolution Services

Page: 3

Residential Tenancy Branch  
Ministry of Housing and Social Development

### Request for \$3000.00

The tenant has stated that she wants \$3000.00 in punitive damages ordered against the landlord, because she believes this Notice to End Tenancy and others given the past have been unjustified. The Residential Tenancy Act does not give me the authority to issue punitive damages, however even if it did I would not award any damages in this case, as I accept that the landlord honestly believed that an invited guest of the applicant had caused an altercation with another occupant of the rental complex, and that therefore the Notice to End Tenancy was justified.

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: July 31, 2009.

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Dispute Resolution Officer