

# Dispute Resolution Services

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

## **DECISION AND REASONS**

### **Dispute Codes:**

CNC, MNDC, OLC, FF

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy. The tenant also applied for compensation for loss under the *Act*, for the landlord to comply with the *Act* and for the recovery of the filing fee. Both parties attended the hearing and had opportunity to be heard.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy? Is the tenant entitled to compensation under the *Act* and to the recovery of the filing fee?

### **Background and Evidence**

The tenancy began on April 01, 2007. The rental unit is an apartment located in a multi-story apartment building. The rent is \$610.00 plus \$10.00 per month for a parking spot. On September 01, 2009, the landlord served the tenant with a one-month notice to end tenancy for cause. The landlord cited the following reasons for the notice :

1. *Tenant significantly interfered with or unreasonably disturbed another occupant and the landlord of the residential property.*
2. *Tenant engaged a campaign of destroying the credibility and integrity of the manager's reputation by sending letters to the owner of the property with false accusations and malice.*

During the hearing the above reasons were discussed at length and the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of the portion of their dispute that dealt with the notice to end tenancy.

The portion of the dispute that was not resolved by agreement between the two parties was the tenant's application for compensation in the amount of \$3000.00.

The tenants stated that the landlord had falsely accused them of criminal activity and

filed a police report charging them with smoking illegal substances and sexual assault. This action on the part of the landlord caused the tenants a great deal of stress as the charges, which were later dropped, jeopardized their livelihoods. Both tenants are required to take on going criminal record checks as a condition of their employment.

One tenant was off work for two weeks as the medication that she took to combat the stress generated from the charges, did not permit her to work in her role of registered nurse. The other tenant took time off work to file this application, deal with the local police and gather the relevant documentation. The tenants are applying for compensation for lost wages for the time spent off work.

The police file regarding the allegation of sexual harassment was closed for lack of evidence. The landlord did not file any evidence to support the allegation of the tenants smoking illegal substances inside the rental suite.

### **Analysis**

Pursuant to Section 63 of the *Residential Tenancy Act*, the dispute resolution officer may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle a portion of their dispute. Specifically, it was agreed that the landlord would withdraw the notice to end tenancy and allow the tenancy to continue. Both parties agreed to the following terms:

1. Both parties agreed to conduct business with each other in a respectful manner.
2. The tenant agreed to ask the landlord for information when in doubt and provide all requests and communication with the landlord, in writing.
3. The landlord agreed to respond in writing, to all requests from the tenant.
4. The landlord agreed to send a copy of the parking regulations to the tenants.
5. The landlord agreed to allow the tenant the use of an extra parking spot upon payment of the parking fee.

Regarding the tenant's claim of being falsely accused by the landlord of criminal

behaviour, I find that the landlord did not provide sufficient evidence to support his accusations. The landlord has not filed any written complaints from the other residents regarding the smoking of illegal substances by the tenants.

The tenants have resided at this address since April 2007 and there are no such complaints other than three warning letters from the landlord, all written in July 2009 requesting the tenants to stop the activity of smoking illegal substances. In addition, the charge of sexual harassment was dropped for lack of evidence and the police file is now closed. Despite the above, I do not have the authority to award punitive damages in order to punish the respondent if he indeed falsely accused the tenant of participating in criminal activity.

In regard to the tenant's monetary claim for non-pecuniary damages, I have reviewed the submissions of both parties and I have formed the opinion that the past six months have been very stressful on both parties for different reasons. It is my determination that the parties currently find themselves in a situation which has progressively evolved and for which each has made some contribution to its unfolding.

Non-pecuniary damages are measured by the wronged person's suffering and must be sufficiently significant in depth or duration or both, that they represent a significant influence on the wronged person's life.

Other than the understandable angst and stress which accompanies a state of disagreement and uncertainty, the tenant did not provide compelling evidence to support their claim of compensation for harassment and stress. The tenant has not established that the landlord's accusations alone caused them any additional out of pocket expenses or significantly influenced their lives enough to warrant an award of \$3000.00 and therefore this claim is dismissed.

Given the hostile nature of the relationship that exists between the landlord and the tenant herein, both the landlord and the tenant are hereby ordered to comply with all relevant provisions of the *Residential Tenancy Act*, the Regulations passed pursuant thereto and the terms of their tenancy agreement.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy will continue. The tenant may deduct the amount of \$50.00 from the next rent for the recovery of the filing fee.

Dated September 08, 2009.

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Dispute Resolution Officer