



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      CNC, MNR, MNDC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a Notice to End Tenancy for Cause and for a monetary order for emergency repairs and compensation for damage or loss.

The tenant appeared on his own behalf. The landlord was represented by 5 agents including property managers and a building manager.

The tenant has substantial documentary evidence, however, there are 15 pages of emails that are not complete and the entire right hand side of the documents is missing. I will not be considering any information provided solely in those emails.

### Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause; and to a monetary Order for the cost of emergency repairs and for compensation or loss for damage or loss under the Act, regulation or tenancy agreement, pursuant to Sections 32 and 33 and 47 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenant submitted into documentary evidence:

- Several incomplete emails;
- A summary of issues forwarded to several email addresses;
- A letter to the landlord dated December 3, 2010 noting the issues the tenant has concerns about;
- A letter to the building manager dated November 12, 2009 regarding the infestation in the rental unit;
- A letter to the manager of the pest control contractor dated November 12, 2009;
- A copy of a notice to the residents of the residential property indicating a heating problem in the complex;
- Several photographs of the rental unit on a CD; and
- A letter dated May 19, 2009 to the building manager outlining items requiring attention after moving into the rental unit.

The landlord submitted the following documents into evidence:

- A summary of issues dated January 25, 2010;
- A copy of a previous Dispute Resolution decision dated November 19, 2009;
- A copy of a letter and attachments to the tenant from the landlord dated November 20, 2009 outlining to the tenant the need to comply with the requirements of the pest control contractor prior to treatment;
- A letter from the pest control contractor to the landlord dated December 10, 2009 stating they were unable to complete the treatment due to the state of the condition of the rental unit;
- An email from the tenant to the landlord's agents objecting to the scheduled treatment;
- A copy of a tenancy agreement signed by the parties on April 30, 2009 for a 1 year fixed term tenancy beginning on May 1, 2009 for a monthly rent of \$699.00 due on the 1<sup>st</sup> of the month, a security deposit of \$349.50 was paid on May 1, 2009;
- A copy of a Freedom of Information response package from the local health authority providing the landlord with copies of a complaint file for this rental unit and all correspondence;
- An additional summary of events from the building manager dated January 5, 2010; and
- A copy of 1 Month Notice to End Tenancy for cause dated December 22, 2009 with an effective vacancy dated of January 31, 2010, citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord testified that the landlord's agents and pest control contractor have been trying to facilitate an appropriate treatment to the tenant's rental unit but the tenant has not prepared the rental unit to the requirements that have been provided prior to the treatment.

The tenant does not believe these requirements are necessary for the treatment and wants the landlord to treat all his possessions by leaving them where they are. One of the requirements is to have everything moved away from the walls of the rental unit.

In the photographs submitted by the tenant furniture, such as his television and computer desk are up against the wall. The instructions also indicate to clean off the counter; there are dishes covering the counter in the photographs.

The landlord claims that this refusal by the tenant to allow for the extermination of pests is impacting his ability to protect other tenants from an infestation. The landlord's testimony is that this is significantly interfering with the landlord as per the Notice to End Tenancy.

The tenant testified that he has not had heat since he moved into the rental unit in May, 2009 and that he has had to use electric heaters. The landlord's agent testified that heat is never turned off in the building and that they had been unaware of a heating problem in the tenant's unit until recently.

The landlord testified they attempted to bleed the lines to unblock any potential lines in the rental unit. Again the landlord was not able to complete this as the tenant has too many articles blocking access to the heat registers. The landlord offered to return at a later date when ready but the tenant has not contacted the landlord to arrange an alternate time.

### Analysis

Section 32 of the Act states a landlord must provide and maintain a residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and makes it suitable for occupation by a tenant.

In the letter from the pest control contractor the landlord is warned that failure to treat the tenant's rental unit may cause the infestation to spread to surrounding rental units. I find this warning from the contractor places the landlord in a position to ensure that treatment occurs to prevent any impact on surrounding tenants, as per Section 32.

The evidence submitted also shows the tenant was told on many occasions what is required to prepare for the treatment. I find the tenant has shown by his photographic evidence and by his testimony that he has not prepared the rental unit at all in preparation for any treatment inside the rental unit.

As a result, I find the tenant is significantly interfering with the landlord and his ability to ensure that this tenant and other tenants. Section 47 of the Act allows a landlord to end a fixed term tenancy if the tenant has significantly interfered with the landlord.

In relation to the heating issue the landlord had submitted in documentary evidence confirmation that there had been a boiler failure starting on November 28, 2009 and had been corrected by December 6, 2009.

I am satisfied the landlord was not aware of any individual heating problems until recently and has made reasonable attempts to investigate the problem, but the tenant has impeded the landlord's ability to attempt a correction to the problem by not providing the landlord free and clear access to the registers.

During the hearing the landlord requested an order of possession, if the notice to end tenancy is not cancelled. The landlord testified that they would not require immediate possession and would be willing to provide the tenant with a couple of weeks to vacate.

The tenant has applied for compensation for emergency repairs and loss or damage under the Act, regulation or tenancy agreement in the amount of \$2,500.00 however the

tenant has failed to show that he has suffered any loss or damage. Further there is insufficient evidence to find that the landlord breached the *Act*, regulation, or tenancy agreement.

In regard to the emergency repairs, I am not convinced there is a need for any emergency repair and in fact, I find the landlord is being prevented by the tenant to complete any investigation or necessary repairs to the heating system and from completing any pest control treatment.

### Conclusion

For the above note reasons, I dismiss the tenant's application to cancel the 1 Month Notice to End Tenancy for Cause, dated December 22, 2009.

I also dismiss the tenant's application for compensation for loss or damage under the Act.

Having dismissed the tenant's application to cancel the 1 Month Notice to End Tenancy for cause and at the landlord's request in the hearing, I find that the landlord is entitled to an Order of Possession effective **February 28, 2010 after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: February 04, 2010.

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Dispute Resolution Officer