

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain an Order to cancel a notice to end tenancy for cause.

Service of the hearing documents, by the Tenant to the Landlord, was completed by the Tenant placing the documents in the Landlord's office mailbox on February 14, 2010. The Landlord confirmed receipt of the hearing package.

The Landlord and Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issues(s) to be Decided

Is the Tenant entitled to an Order to cancel the 1 Month Notice to End Tenancy for Cause pursuant to section 47 of the *Residential Tenancy Act*?

### Background and Evidence

The undisputed testimony was the fixed term tenancy began on December 1, 2009 and is set to expire on May 31, 2010. The monthly rent is payable on the first of each month in the amount of \$650.00. The Landlord personally served the Tenant with a 1 Month Notice to End Tenancy for Cause on January 31, 2010, and the Landlord personally served the Tenant with a 10 Day Notice to End Tenancy for unpaid rent on February 5, 2010. The Tenant has failed to pay anything towards February 2010 rent or March 2010 rent.

The Landlord testified that she received several complaints from other tenants that there has been loud music and the odour of pot coming from the Tenant's apartment causing disturbance to other tenants. The Landlord argued that she spoke to the Tenant on January 9, 2010, in the back entrance and informed him that she had received many complaints and requested that the next time the Tenant had people over to please keep it quiet.

The Landlord stated that she then had to speak to the Tenant on January 30, 2010 at approximately 8:45 p.m. after receiving three complaints by telephone of the Tenant having a party with loud music, people yelling from the balcony, and the odour of pot smell coming from the rental unit. The Landlord told the Tenant to keep it down however had to attend the rental unit again at 8:00 a.m. on January 31, 2010 and this time she attended the rental unit with the RCMP, after which she issued the Tenant the 1 Month Notice to End Tenancy for cause.

The Landlord testified that she attended today's hearing to represent the Landlord; to have the Tenant move out of the rental unit because of the rental arrears, partying and pot smoking; and for the Landlord to regain possession of the unit.

The Tenant testified and confirmed he spoke with the Landlord about the loud music and noise on January 9, 2010, January 30, 2010, and January 31, 2010. The Tenant argued that he felt it was unfair for the Landlord to be able to end his tenancy because of having one party and only three talks to him about noise. The Tenant questioned whether his guests were actually yelling off his balcony on January 30<sup>th</sup>, 2010.

### Analysis

All of the testimony and documentary evidence was carefully considered.

The Tenant filed his first application February 9, 2010, to cancel the 1 Month Notice to End Tenancy for Cause, within the time allowed under the Act. The Tenant then filed an amended application on February 11, 2010 to correct the dispute address. Both applications were filed after the Tenant was served the 1 Month Notice to End Tenancy on January 31, 2010 and after the Tenant was served the 10 Day Notice for unpaid rent on February 5, 2010.

Upon review of both the 1 Month Notice to End Tenancy and the 10 Day Notice to End Tenancy, I find the Notices to be completed in accordance with the requirements of the Act and I find that both Notices were served upon the Tenant in a manner that complies with the Act.

Upon consideration of all the evidence presented to me, I find the Landlord's evidence in support of the 1 Month Notice to End Tenancy for Cause to be minuscule however in the presence of the 10 Day Notice to End Tenant for unpaid rent, for which the Tenant did not apply to dispute, I find the combined reasons for issuing the Notices to be valid. Based on the aforementioned I hereby dismiss the Tenant's application.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent 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: March 29, 2010.

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Dispute Resolution Officer