

## **Decision**

**Dispute Codes:** CNC

### **Introduction**

This hearing dealt with an application by the tenant to cancel the landlord's notice to end tenancy for cause. Both parties attended the hearing and gave affirmed testimony. Further, both parties consented to amendment of the application to show the correct name of the landlord.

### **Issue to be decided**

- Whether the tenant is entitled to the above under the Act

### **Background and Evidence**

There is no written tenancy agreement in evidence for this tenancy which began several years ago. Monthly rent is paid directly to the landlord by the ministry, and rent is currently somewhere between \$446.95 and \$451.00. The tenant recalls that a security deposit was collected at the start of tenancy, however, he could not confirm the amount.

Specific incidents occurring on or about February 17 & 18, 2010, led to the landlord's issuance of a 1 month notice to end tenancy for cause dated February 18, 2010. A copy of the notice was submitted into evidence, and reasons shown for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

The events leading to the issuance of the notice are documented in log form by “SF,” who is employed by the landlord as a front desk clerk. The landlord’s concern arises out of the tenant’s conduct and behavior following “SF’s” denial of guest access to the unit. Specifically, the log describes challenging, threatening and verbally abusive behavior on the part of the tenant, particularly towards “SF.” While another employee, “GM” was present to testify at the hearing, “GM” had no direct involvement with the particular events leading to issuance of the notice. There were no other witnesses present or immediately available to testify at the time of the hearing.

### **Analysis**

Section 47 of the Act addresses **Landlord’s notice: cause**, and provides in part as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or...

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 1 month notice to end tenancy for cause dated February 18, 2010.

Section 47(4) of the Act provides that a tenant who receives a notice under section 47 of the Act, may dispute the notice by making an application for dispute resolution within “10 days after the date the tenant receives the notice.” In the circumstances of this dispute, the tenant filed an application for dispute resolution on March 1, 2010, which I find is within 10 days of his receipt of the notice.

I note there have been occasions from time-to-time during the tenancy when tensions have existed between the parties. Incidents / complaints are documented as far back as a year or more, and include allegations of yelling, screaming, swearing, slamming of doors and so forth, on the part of the tenant. Clearly, some feeling of animosity currently exists between the tenant and "PR," agent representing the landlord.

However, in the absence of direct witness testimony, on a balance of probabilities I find that the landlord has not met the burden of proving that the tenant's conduct and behavior on or about February 17 & 18, 2010, was sufficiently significant or serious to warrant the granting of an order of possession. Accordingly, I hereby cancel the landlord's notice to end tenancy, with the effect that the tenancy continues in full force and effect.

For reference, the attention of the parties is drawn to section 56 of the Act which speaks to **Application for order ending tenancy early**. Both parties are encouraged to familiarize themselves with the legislation which provides, in part, that in certain circumstances an order ending tenancy early may be made without a requirement that the landlord give the tenant a notice to end tenancy. The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca/](http://www.rto.gov.bc.ca/)

### **Conclusion**

Pursuant to all of the above, the landlord's notice to end tenancy for cause is hereby set aside. The tenancy continues in full force and effect.

DATE: April 15, 2010

---

Dispute Resolution Officer