



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** CNC, OPC, FF

### **Introduction**

This hearing dealt with applications by the tenant and the landlord pursuant to the *Residential Tenancy Act*. The landlord had served a notice to end tenancy for cause and the tenant applied for an order to set aside this notice and for the recovery of the filing fee. The landlord applied for an order of possession pursuant to this notice.

The landlord was represented by the president of the society, building manager and two witnesses. The tenant was represented by his son. Both parties attended the hearing and had opportunity to be heard.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy?

### **Background and Evidence**

The tenancy began on June 01, 1993. On July 23, 2010, the landlord served the tenant with a one month notice to end tenancy for cause.

The notice to end tenancy alleges that the tenant has seriously jeopardized the health or safety or lawful right of another occupant and has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant jeopardized a lawful right or interest of another occupant.

The landlord stated that starting April 2010; some interfering signals were detected that affected the functioning of the satellites in the residential complex and the adjoining areas. The landlord also stated that these signals interfered with pace makers and other medical implants and caused health problems for residents of the complex. Some residents complained of poor reception on their television sets.

An investigation was conducted and the cause of the disturbance was traced to a device that was inside the rental unit, concealed in a box of paper tissue. Upon unplugging this device from the source of electricity, the interference was eliminated and full function was restored to the satellites. The tenant was given a warning to cease this type of activity and he did so immediately. The landlord agreed that effective July 06, 2010, the tenant stopped use of this device and there were no further complaints regarding problems with the satellites, television reception and medical devices.

The landlord's witness filed a statement stating that her pace maker and her television malfunctioned prior to July 06. However, during the hearing she could not recall the dates when the problems occurred and stated that she had problems as recently as September 16.

The tenant stated that the device is similar to a web cam and is also known as a pin hole camera. He had installed this device to protect his property while he was out of the rental unit. He stated that he suspected that someone was entering the unit while he was out grocery shopping and therefore he installed this camera to record activity inside the unit, in his absence. He stated that he was unaware that signals from this device would interfere with satellite signals or medical implants and removed the device immediately after he was instructed to do so.

The tenant filed a statement from a neighbor which states that she wears a pace maker and has never had a problem with it for the last 10-12 years that she has occupied a unit that is close to the dispute rental unit.

### **Analysis**

In order to support the notice to end tenancy, the landlord must prove at least one of the grounds alleged, namely that the tenant has seriously jeopardized the health or safety or lawful right of another occupant or has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant.

Based on all the evidence before me, I find that the tenant did install a device that adversely affected the satellite signals. However there is insufficient evidence to allow me to conclude that this device was the sole cause of problems with medical implants. The tenant was informed about the problems that his device was creating on July 06, 2010 and immediately ceased using the device.

I accept that the tenant caused problems for the landlord and the other occupants of the building complex, but I am not satisfied that these actions of the tenant were deliberate and that they justify bringing this tenancy to an end. The evidence filed by the landlord, indicates that the tenant complied immediately with the request of the landlord to cease using the problem causing device.

I therefore allow the tenant's application and set aside the landlord's notice to end tenancy dated July 23, 2010. As a result, the tenancy shall continue in accordance with its original terms. The tenant would be wise to refrain from giving other occupants of the residential complex, reason to complain. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer, for consideration.

Since the tenant did give the landlord cause to serve the notice to end tenancy, the tenant must bear the cost of filing this application.

### **Conclusion**

The notice to end tenancy is set aside and the tenancy will continue.

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: September 20, 2010.

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Dispute Resolution Officer