



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      CNC, MNDC, OLC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy; for a monetary order; and for an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

The hearing was conducted via teleconference and was attended by the tenant and her witness and the landlord.

### 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; to a monetary order for compensation for loss or damage under the *Act*, regulation or tenancy agreement; and for an order to have the landlord comply with the *Act*, regulation or tenancy agreement, pursuant to sections 47, 67, and 72 of the *Act*.

### Background and Evidence

The tenancy began on March 1, 2006 as a month to month tenancy for current monthly rent in the amount of \$289.00 due on the 1<sup>st</sup> of the month, a security deposit of \$102.50 was paid on February 3, 2006.

The tenant submitted a copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on August 18, 2010 with an effective vacancy date of September 31, 2010 citing the tenant has allowed an unreasonable number of occupants in the unit; the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord and put the landlord's property at significant risk.

The tenant contends that this matter has been going on since April 2010 that the landlord has been asking for the tenant to name her friend who visits her everyday and to confirm that he is living elsewhere.

The parties have submitted a letter from the landlord dated April 16, 2010 that advises the tenant that the landlord has been advised that someone not on the tenancy agreement is staying in her rental unit for an extended period of time and he has keys to

the building. The letter also suggests the tenancy is in jeopardy and that the tenant is creating a security breach.

In a letter from the landlord dated July 28, 2010 stating the tenant has not provided any proof that her visitor has his own residence. The landlord states that giving keys to this person is a breach of Section 18 of the tenancy agreement and asking for the tenant to return the spare keys and that should she fail to comply she may receive a Notice to End Tenancy.

The landlord also has submitted a copy of a letter from the landlord dated August 4, 2010 that failure to return her second set of keys by August 6, 2010 the tenant will be served with a Notice to End Tenancy.

The parties have also provided a copy of a letter from the landlord dated August 23, 2010 where, in regard to the tenant's guest the landlord states: "Since he spends the majority of the day at the building few can define him as an occupant. I do not believe that he removes himself at night on a regular basis but I do not have reliable reports otherwise.

### Analysis

Section 18 of the tenancy agreement states the landlord and tenant cannot change locks or security devices unless both agree and that the tenant agrees to not make any extra keys for any locks of the residential property. The tenant has submitted a copy of the building house rules that state a tenant may obtain an "extra" set of keys and a copy of a receipt dated Nov 23, 2009 showing she obtained keys from the landlord. I find the tenant has not breached this section of the tenancy agreement.

I accept the landlord's position in the letter dated August 23, 2010 that states that he cannot define the tenant's guest as an occupant, therefore I find the landlord has not grounds to indicate that the tenancy should end because the tenant has allowed an unreasonable number of occupants in the unit.

While the landlord has indicated that the other two reasons for cause to end the tenancy are specifically because the tenant has allowed an person (unknown to the landlord) to have a set of keys, he has presented no evidence that this person has seriously jeopardized the health or safety or lawful right of another occupant or the landlord or put the landlord's property at significant risk.

While I agree with the landlord's statement in one of the letters sent to the tenant that it is not unreasonable for the landlord to know who have keys to the property I find nothing in the landlord's evidence, including the tenancy agreement or in the Act and regulations that requires a tenant to divulge who she has provided a spare key to or for what purposes.

As a result of the landlord's persistence on this issue; and the issuance of a 1 Month Notice to End Tenancy immediately following the tenant filing an Application for Dispute Resolution to get the landlord to stop requesting the information and in light of the tenant's medical condition for which the landlord was aware I find the tenant is entitled to aggravated damages.

While the tenant has made a claim of \$5,500.00 in compensation, she has failed to show how she established this amount. While I accept the duration of this issue has transpired over the course of several months, I find that the majority of dealing with the issue has been over the period of July and August 2010 and find that a reduction in the value of the tenancy over those months in the amount of \$100.00 per month to be a reasonable compensation.

### Conclusion

I find that the landlord has failed to prove sufficient cause to end the tenancy and therefore grant the tenant's application to cancel the notice to end tenancy and I find the tenancy is in full force and effect.

I find that the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$200.00** comprised of compensation in the form of aggravate damages resulting from the stress and concern suffered by the tenant as a result of the landlord's actions.

I order the tenant may deduct this amount from her next rent payment in accordance with Section 72 (2)(a) of the *Act*.

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 22, 2010.

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Dispute Resolution Officer