

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution to cancel a One Month Notice to End Tenancy for Cause.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issues(s) to be Decided

Is the Tenant entitled to an Order cancelling the One Month Notice to End Tenancy for Cause?

### Background and Evidence

This tenancy started on August 1, 2009, on a month to month basis. Monthly rent is \$525.00, payable on or before the 20<sup>th</sup> day of each month, unless income assistance day is later.

Pursuant to the rules of procedure for the Act, the Landlord proceeded first in the hearing and testified as to why the Tenant had been served a One Month Notice to End Tenancy

The Landlord issued a One Month Notice to End Tenancy for Cause to the Tenant on August 24, 2010, with a stated effective date of September 25, 2010. Under the Act, a notice under this Section must end the tenancy effective on a date that is not earlier than one month after the date the notice is received, and the day before the day in the month that rent is payable under the tenancy agreement. Thus I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to October 19, 2010. I further note that the Tenant filed his application for dispute resolution within the time in accordance with the Act.

The cause as stated by the Landlord indicated that the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord supplied evidence and gave affirmed testimony that the Tenant drank heavily on a certain day of each month, threatened other occupants and verbally assaulted the caretaker of the property. The Landlord further testified, and the Witness confirmed, that the Witness was scared after this incident and felt unsafe to be around the Tenant.

The Landlord gave affirmed testimony that the Tenant plays loud music, has threatened an elderly occupant of the property and that several other occupants are scared of the Tenant.

The Landlords submitted a copy of a log entry from August 2010, notating the incident with the caretaker, 2 notes given to the Tenant regarding noise, drunkenness, verbal abuse and bringing in a prostitute. I note the two notes sent to the Tenant regarding his behaviour, were both from 2009, and additionally there was just one log entry from the caretaker.

The Tenant gave affirmed testimony denying drinking to excess, creating noise disturbances, threatening other occupants or having any overnight guests. The Tenant did admit to being upset at the incident in question with the caretaker.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Once the Tenant made an Application to dispute the Notice, the Landlord became responsible to prove the Notice to End Tenancy is valid.

With the evidence before me, I cannot find that the Tenant has been unreasonably disturbing or interfering with other occupants in the property. There is no evidence, such as letters or statements from other occupants, police reports or current letters to the Tenant that support these claims. It also does not appear, from the evidence provided, that the Tenant is adversely affecting the quiet enjoyment, security, safety or physical well being of another occupant or the Landlord or has breached a material term

of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Therefore, I find the Landlord submitted insufficient evidence to prove the causes in the Notice to End Tenancy.

**Based on these findings, I find that the one month Notice to End Tenancy issued in this matter is not valid and I order it to be cancelled. The Notice is of no force or effect and the tenancy will continue until ended in accordance with the Act.**

### Conclusion

The Landlord's One Month Notice to end Tenancy is not valid and not supported by the evidence and the Tenant is granted an order dismissing the Notice to End Tenancy.

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: October 06, 2010.

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Dispute Resolution Officer