



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenant to cancel a Notice to End Tenancy for Cause. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issues to be Decided

Should the Notice to End Tenancy for Cause be set aside

### Summary of Background and Evidence

This 1 year, fixed term tenancy started on June 16, 2010 with monthly rent of \$530.00, the Tenant paid a security deposit of \$265.00. On October 6<sup>th</sup>, 2010 the landlord served the tenant with a Notice to End Tenancy for Cause. Specifically the landlord indicated on the Notice that the tenant had: seriously jeopardized the health or safety or lawful right of another occupant or the landlord; put the landlord's property at significant risk; damaged the landlord's property, adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; jeopardized a lawful right or interest of another occupant or the landlord.

The landlord testified that the tenant put the building and all occupants at risk when the tenant disconnected the smoke detector in his room without the landlord's consent and without advising the landlord of his actions. The landlord testified that they believe the tenant smokes in his room as smoke from the tenant's room can be smelled in other areas of the building. As this is an older building the landlord feels the potential risk of fire is high.

The tenant testified that yes he did disconnect the smoke detector as it was going off every time he cooked food. The tenant stated that he made attempts to contact the landlord and advise them of the matter however the landlord was away on vacation. In August when the landlord returned from vacation, the tenant was in the hospital for surgery and could not contact the landlord about the smoke detector. On September

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26<sup>th</sup> when the tenant was back in his rental unit the landlord conducted an inspection and observed the disconnected smoke detector.

The tenant admits that he is a smoker and stated that he smokes outside in the designated areas and that he does not smoke in his room.

The tenant stated that the tenancy agreement does not specify that he cannot smoke in his room and must smoke in designated areas only, the landlord acknowledged this fact. The tenant was very agreeable to having the landlord come and check the new smoke detector to ensure it is properly working and offered to pay for the replacement smoke detector the landlord purchased.

## Analysis

Based on the documentary evidence and testimony I am not satisfied that the landlord has proved its case. I accept that the tenant did disconnect the original smoke detector but as the replacement smoke detector has not been tampered with I am not satisfied that the actions of the tenant justify bringing this tenancy to an end. If such behaviour were to occur again in the future and another Notice to End Tenancy for Cause issued, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer.

## Conclusion

I therefore allow the tenant's application and set aside the landlord's Notice to End Tenancy for Cause dated October 6, 2010. As a result, the tenancy shall continue in accordance with its original terms.

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 27, 2010

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Dispute Resolution Officer