



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the conference call hearing.

### Issue to be Decided

Should the notice to end tenancy be set aside?

### Background and Evidence

The parties agreed that the rental unit is one in which the tenant has exclusive use of one bedroom and shares a bathroom, kitchen and living area with another tenant. The parties further agreed that on September 1 the tenant was served with a one month notice to end tenancy. The notice alleges that there are an unreasonable number of occupants in the rental unit, the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, the tenant has put the landlord's property at significant risk and the tenant has caused extraordinary damage to the rental unit.

The landlord and his witness testified that the tenant or his guests have repeatedly damaged the door to the rental unit and to the tenant's bedroom and that the landlord has repaired the doors on a number of occasions, including installing a new deadbolt. The landlord testified that the tenant repositioned the hood fan over the stove at an angle to permit him to keep a shelving unit right beside the stove and alleged that this was damaging and dangerous. The landlord also claimed that the tenant broke the shower handle and left the common areas in the rental unit so cluttered that the other

tenant was disturbed. The landlord further claimed that a number of other tenants had vacated the unit because they had been disturbed by the tenant and that other tenants had complained that the tenant has sold illegal drugs in the unit. The landlord claimed that the tenant had numerous guests, entering the unit at all hours of the day and night and disturbing other tenants as they slept in the kitchen.

The tenant testified that there was an occasion in which a gentlemen he knew had damaged the front door in an attempt to enter the unit but that he had telephoned the police to address the situation. The tenant acknowledged having moved the hood fan but argued that he moved it back as soon as the landlord complained. The tenant further acknowledged that the shower handle had broken and that he attempted to repair it, but as it was an old fixture, he was unable. The tenant denied having guests with the frequency claimed by the landlord and denied having sold drugs. The tenant stated that he did not create clutter in the common areas and testified that while there were roommates with which he did not get along, the fault was not always his.

### Analysis

The landlord bears the burden of proving on the balance of probabilities that he has cause to end the tenancy.

The landlord did not produce witnesses such as other tenants who could give firsthand testimony regarding the tenant's alleged disturbances. I find that the landlord has failed to prove that the tenant unreasonably disturbed other occupants or the landlord. I further find that absent testimony from other tenants who could confirm that the tenant had an unreasonable number of occupants as opposed to short-term guests, that the landlord has failed to prove that the tenant had an unreasonable number of occupants.

I find insufficient evidence to prove that the tenant placed the landlord's property at risk. While it is possible that the repositioning of the hood fan posed some danger, the landlord has not proven what that danger was. Further, the fact that the tenant returned the hood fan to its original position when asked to do so eliminated the danger. While the incident in which the door of the rental unit was broken into by a party known to the

tenant may have been risky, the tenant immediately telephoned the police and in my view, adequately addressed the risk.

While some damage has been caused to the rental unit, I am not satisfied that any of the damage can be characterized as extraordinary. The landlord has not proven that the shower handle broke as a result of the tenant's negligence as opposed to reasonable wear and tear. The damage to the doors may well be the financial responsibility of the tenant, but I am unable to find that it has been extraordinary.

### Conclusion

For the reasons given above, I find that the landlord has failed to prove that he has cause to end the tenancy. Accordingly I order that the notice to end tenancy be set aside and of no force or effect. As a result, the tenancy will continue.

Dated: October 18, 2010

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Dispute Resolution Officer