



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated August 13, 2010.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started on April 1, 2009. On August 13, 2010, the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause dated August 13, 2010. The ground alleged on the Notice was that "the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord."

The Landlord's agent (F.M.) claimed that the Tenant was served with the Notice to End Tenancy as a result of the following incidences:

- On January 18, 2010 the Tenant attended a resident's and Board members meeting, appeared to be intoxicated, was disruptive, verbally abusive to some residents and members had to be escorted from the room;
- On February 18, 2010, the Tenant was verbally abusive to 3 other occupants of the rental property who were in the coffee room;
- On May 14, 2010, the Tenant appeared to have been drinking and while in a common area of the property hugged another resident of the property against his wishes;
- On May 17, 2010, the Tenant appeared to have been drinking and while in a common area of the property made a sexually suggestive remark to another resident of the property;
- On July 29, 2010, the Tenant hugged another resident of the property against his wishes;
- On July 31, 2010, the Tenant attended another resident's suite in an intoxicated state, made inappropriate gestures and was generally a nuisance;

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- On August 4, 2010, the Tenant attempted to grab another resident in an inappropriate manner.

The Landlord's agent (F.M.) said that on February 18, 2010 the Tenant was given a written notice of the complaint about the incident that was alleged to have occurred that day and warned that any further incidents could result in his tenancy being ended. The Landlord's agent also claimed that the Landlord's board members met with the Tenant on August 5, 2010 regarding the other complaints but that the Tenant left the meeting.

The Tenant denied the allegations made by the Landlord and argued instead that they were fabricated to discredit and harass him. In particular, the Tenant claimed that he became unpopular with 6 other residents some of whom objected to his disability assistance dog being on the rental property and sought another way to evict him. The Tenant admitted that he disrupted a meeting on January 18, 2010 but claimed that he was on heavy narcotics due to a head injury he sustained in a motor vehicle accident. The Tenant said he immediately apologized to the Landlord's agents, offered to provide them with a doctor's letter and assured them it would not happen again. The Tenant also admitted he walked out of the meeting with the Landlord's agents on August 5, 2010 but said that was because the Landlord's agents refused to identify the complainants and he advised them that he wished to have legal counsel.

## Analysis

The Landlord did not disclose to the Tenant the identity of any of the complainants until the hearing of this matter. In his written submissions, the Landlord's agent claimed that this was for "confidentiality reasons." At the hearing, the Landlord's agent claimed that the Tenant threatened to sue the Landlord and its agents for harassment and was threatening to subpoena the complainants as witnesses. Consequently, the Landlord's agent (F.M.) said he did not want the complainants to feel threatened by Tenant if he approached them about their written statements. The Landlord's agent denied that the Tenant was being harassed and claimed that the Landlord and its agents had to pursue any complaints brought to their attention.

It is a fundamental rule of natural justice that an accused person has the right to respond to allegations made about them. In order to be able to respond, a Party is entitled to know who is making the complaint and to question the complainant to test their credibility or the reliability of their evidence. This is impossible when the identity of the complainant is unknown or the complainant is unavailable to be questioned at the hearing (or at any time) about their statement. As the Tenant only became aware of the identity of the complainants at the hearing of this matter, I find that he was not afforded a reasonable opportunity to respond to their allegations. As the complainants did not

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attend the hearing to be questioned on their statements, I find that the written statements of the alleged complaints that occurred between February 18, 2010 and July 31, 2010 are hearsay and inherently unreliable and for that reason, I give them very little weight.

As I have found that the Tenant was entitled to know who was making complaint(s) against him, I find that it was reasonable for him to refuse to participate in a meeting with the Landlord's agents on August 5, 2010 when they refused to identify the complainants.

The Parties agree that the Tenant's behaviour at the meeting on January 18, 2010 was caused or contributed to by the strong medications that the Tenant was taking as a result of a head injury he sustained in a motor vehicle accident. The Tenant apologized the following day to the Landlord's agents for his actions and agreed that there would not be a repeat of them. In the circumstances, I find that this incident on its own is not serious enough to end the tenancy and in the absence of any other reliable evidence that the Tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, I find that there is insufficient evidence to support the grounds on the One Month Notice to End Tenancy for Cause dated August 13, 2010.

## Conclusion

The Tenant's application is granted. The One Month Notice to End Tenancy for Cause dated August 13, 2010 is cancelled 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: October 04, 2010.

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Dispute Resolution Officer