



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPC, CNC

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlord is seeking an order of possession and the tenant is seeking to cancel the notice to end tenancy.

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

### Issues(s) to be Decided

The issue to be decided is whether the landlord is entitled to an order of possession for cause, pursuant to Sections 47 and 55 of the *Residential Tenancy Act (Act)*.

In addition it must be decided if the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Act*.

### Background and Evidence

The landlord has submitted a copy of a tenancy agreement signed by the parties on August 31, 2010 for a month to month tenancy beginning on September 1, 2010 for the monthly rent of \$850.00 due on the 1<sup>st</sup> of each month, a security deposit of \$425.00 was paid.

The landlord's agent submits that on October 16, 2010 she issued the tenant a warning letter that they had received complaints about excessive late-night noise from the tenant's rental unit, outlining the consequences should the landlord receive more complaints.

The landlord's agent also submits that she received a phone call from the tenant on October 16, 2010 in which she alleges the tenant was intoxicated, irrational, aggressive and rude and that he threatened the landlord by stating he would teach her a lesson and when he leaves he will take something out of the apartment to cover his security deposit.

The landlord also states that on October 17, 2010 the occupant above this tenant that there was very loud music in the tenant's unit until 2:00 a.m. that morning. The agent

also notes that she heard a crash by the laundry room and saw the tenant walking toward the back door, she later found out that there was a hole in the wall from the door handle.

The landlord states that several of the complaints that she has received include complaints of the tenant smoking marijuana on his balcony that some tenants find disturbing. The tenant states that he has a medical permit to smoke marijuana, he did not provide a copy into evidence.

The landlord has submitted a copy of a 1 Month Notice to End Tenancy for Cause dated October 29, 2010 with an effective date of November 30, 2010 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant or the landlord and jeopardize a lawful right of interest of another occupant or the landlord; and the tenant has assigned or sublet the rental unit without landlord's written consent.

The tenant contends that he has no ability for loud music or noises into the night and that the other tenants are either related to or have close relationships with the landlord's agent and are making this all up because they don't like the tenant.

Regarding the complaint that the tenant's children were running around the hallways slamming doors the tenant states that the doors are on automatic closing devices and cannot therefore be slammed, the landlord has submitted two written complaints about the children. One states that the children were slamming doors, the other states the children were knocking on doors or ringing doorbells and running back to their own unit.

### Analysis

Section 47 of the *Act* states that a landlord may end a tenancy by giving notice to end the tenancy for, among other things, the occurrences noted in the notice submitted into evidence. As the tenant has applied to cancel this notice, the landlord must provide evidence to support their claim has sufficient merit to end the tenancy.

The landlord has provided no evidence or testimony regarding the claim that the tenant has assigned or sublet the rental unit without the landlord's consent, as such, I find the landlord has not established this as a ground for cause to end the tenancy.

I accept from the written statements submitted, the landlord's testimony; and the warning letter provided that the tenant has caused some disturbances in the building. I also accept that once the tenant was warned about these disturbances, the tenant did not appear to modify his behaviour.

The tenant acknowledges that he does smoke marijuana on the balcony; that he did call the landlord on the night of October 16, 2010 but does not accept the landlord's testimony as to his behaviour during the call and that his children were causing any disturbances in the halls or at any other time.

I am not persuaded by the tenant's assertion that he has done nothing wrong and that all of these complaints are made by other tenants in a conspiracy against him.

Despite the tenant's claim that he has a medical permit to smoke marijuana, he has not provided a copy into evidence, as such I cannot rely on that statement. As such, I must consider the activity to be illegal and I accept the landlord has received numerous complaints about this activity.

For all of these reasons, I find the landlord has established sufficient grounds to end the tenancy for cause. I therefore dismiss the tenant's Application for Dispute Resolution in its entirety.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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: December 06, 2010.

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Dispute Resolution Officer