



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      CNC MT MNDC OLC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for cause, for more time to stay in the unit, to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement, and an Order to have the Landlord comply with the Act.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the Act. The Landlord confirmed receipt of the hearing documents.

The parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issue(s) to be Decided

1. Does the Landlord have cause to end the tenancy?
2. Has the Landlord breached the Act, regulation, or tenancy agreement?
3. If so, has the Tenant met the burden of proof for monetary compensation in the amount of \$25,000.00 as a result of that breach?

### Background and Evidence

The parties attended a dispute resolution hearing on October 14, 2010 during which a notice to end tenancy for cause was set aside and the Tenant was cautioned "that future conduct such as led to the notice could well result in an end of the tenancy".

The police constable provided testimony that she has dealt with the Tenant on numerous occasions for police matters and it is known that the Tenant is dealing with mental health issues. She has had occasion to be inside the Tenant's rental unit where she has witnessed plastic covers taped over the smoke alarm and the ceiling fan which poses a severe health risk to the Tenant and other residents in the building. The

constable stated that there is a concern that the Tenant is not taking her medication and allowing her to continue to live on her own may be a safety issue for herself and others.

The Tenant signed into the hearing just after the other participants were checked in and just as the constable was finishing her testimony. I introduced myself to the Tenant and informed her of all the parties who were on the line. I then went through the constable's statement with the Tenant. The Tenant stated she was concerned that the Landlord's table was stacked against her to prove she was mentally incompetent.

The Tenant was given the opportunity to provide her testimony. She described how several of her neighbours are suffering with various forms of mental illness or disorders. She has concerns about the current Landlords and how they too are suffering from various mental illnesses where they are falsely accusing her and creating police files on her. She first stated that she now has a case manager and after a few clarifying questions she advised that she does not have a case manager yet but it is in the works. I asked why she did not have an advocate to assist her today when she advised she does not require an advocate as she is able to proceed on her own.

The Agents for the Landlord confirmed the Tenant was served with both pages of the 1 Month Notice issued for cause on December 30, 2010. The Tenant argued that it was not the Agent who was at the hearing but rather the new building manager who served her the envelope which contained both pages of the Notice and the letter from the Landlord.

Agent 1 advised the Landlords have been working with the Member of the Legislative Assembly's (MLA) assistant to arrange alternate accommodations for the Tenant. They anticipate being able to relocate the Tenant by the end of March and requested that a writ of possession be issued for March 31, 2011.

The Tenant stated that it would be lovely if they could let her stay until the end of March. The Tenant later confirmed that she has had discussions with the MLA's assistant and she has agreed to work with him to find her a new residence by the end of March.

### Analysis

I have carefully considered the testimony and written evidence received from both parties.

I am unable to review the 1 Month Notice to End Tenancy that was issued December 29, 2010 to determine whether it has been completed in accordance with the

requirements of the Act, as neither party provided me with a copy of the Notice. After review of the decision issued October 14, 2010, and in consideration of the testimony before me, I find that the Notice was served upon the Tenant in a manner that complies with the Act and that the Landlord had valid reasons for issuing the Notice. Therefore I dismiss the Tenant's request to cancel the Notice.

Section 55 of the Act provides that an Order of Possession must be provided to a Landlord if a Tenant's request to dispute a Notice to End Tenancy is dismissed and the Landlord makes an oral request for an Order of Possession during the scheduled hearing. Although the Landlord requested the Order to be effective March 31, 2011, I find that there is sufficient evidence to support that this situation is very fragile which could put the Tenant or other residents at risk. I accept the Landlord's intention to permit the tenancy to continue until March 31, 2011. However, given the present circumstances I grant the Landlord an Order of Possession effective two days upon service to the Tenant, in the event the Tenant's conduct worsens to a degree that threatens the wellbeing of herself or others.

With respect to the remainder of the Tenant's application, I find the evidence provided is insufficient to prove the Landlord has breached the Act. Therefore I dismiss the Tenant's request for monetary compensation of \$25,000.00, without leave to reapply.

### Conclusion

The Landlord's decision will be accompanied by an Order of Possession effective two days upon service to the Tenant. The Order must be served to the Tenant and may be filed in Supreme Court and enforced as an Order of that Court.

The Tenant's application is hereby dismissed, without leave to reapply.

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: January 20, 2011.

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Residential Tenancy Branch