



# 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 tenant was served with a one month notice to end tenancy for cause (the "Notice") on or about December 13. The Notice alleges that the tenant has significantly interfered with or unreasonably disturbed another occupant.

The landlords entered into evidence a statement from another tenant, R.K., in which she stated that on or about December 10 she entered the building and when walking up the stairs, was asked by the tenant if she was "Mike's" girlfriend and the tenant then accused her of making noise and he called her "obscene names." R.K. stated that she then went into her suite and when the tenant began knocking on the door, she telephoned Mike and was instructed to call the police. According to her statement, while she was on the telephone with the police, the tenant went downstairs and pounded on the ceiling. When the police arrived, the tenant left the building, R.K. directed them in the direction in which he had gone and was later told by the police that the incident did not warrant a formal report. R.K. stated that she did not feel safe in her home.

The landlords stated that they purchased the building in April 2010 and that they understood that there was a history of unpleasant events with this tenant and in fact had received complaints from other tenants about him.

The tenant acknowledged that he spoke with R.K. on the date in question, that he briefly knocked on her door, called her a single unpleasant name and tapped on the ceiling below her unit several times. The tenant stated that later in the evening, Mike came to his door and stated that if the tenant talked to R.K. again, Mike would do something. The tenant indicated that he felt threatened by the interaction.

### Analysis

The landlord bears the burden of proving that there are grounds to end the tenancy. In this case, although R.K. provided a written statement, she did not appear at the hearing to give firsthand evidence and therefore there was no rebuttal to the tenant's suggestion that the knocking on the door and the ceiling were minimal.

There is no question that R.K. felt that she'd been disturbed by the tenant, but I am unable to find on the balance of probabilities that the disturbance was significant. I am unable to give any weight to the landlord's hearsay evidence that the tenant has a history of disturbance, particularly when no details have been provided.

For these reasons I find that the landlord has failed to prove that there are grounds to end the tenancy and I order that the Notice be set aside and of no force or effect.

### Conclusion

The Notice is set aside. As a result, the tenancy will continue.

Dated: January 11, 2011

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