



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

### Dispute Codes:

CNC

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make relevant submissions to me.

### Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, should be set aside.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on April 17, 2007 and that the Tenant is currently required to pay monthly rent of \$615.07.

The Landlord and the Tenant agree that a One Month Notice to End Tenancy for Cause was posted on the door of the rental unit on December 31, 2010. The reasons stated for the Notice to End Tenancy were 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 Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because in late December of 2008 the Tenant expressed concerns to the Agent for the Landlord about the absence of heat in this rental unit. The Agent for the Landlord contends that the Tenant was angry and was using profanities during this exchange. The Tenant agreed that the conversation was confrontational on both sides but he denies using profanities. The Landlord stated that he was present during this exchange and he noted that both parties were using profanities.

The Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because in early January of 2009 the Tenant and the Agent for the Landlord argued

about the cost of renting a different rental unit in the same residential complex. The Agent for the Landlord contends that the Tenant was angry and was using profanities during this exchange. The Tenant stated that he was being sarcastic during this exchange but he did not use profanities.

The Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because of an altercation that occurred between the Tenant and a person who was laying tile in the residential complex. The Witness for the Landlord and the Tenant agree that the Witness was installing tile flooring in the residential complex on December 23, 2010; that the Witness was using a saw to cut the tile, which he was using in the laundry room; and that the Tenant advised the Witness that the noise was disturbing him.

The Witness for the Landlord stated that the Tenant did not ask him to close the door to the laundry room; that he told the Tenant he would not stop using the saw; that he told the Tenant that he should express his concerns to the manager; that he said nothing rude or impolite during this exchange; that he did not close the door to the laundry room in an attempt to reduce the disturbance he was causing; and that the Tenant told him that he should "take it outside or I'll take you outside".

The Tenant stated that the Witness for the Landlord initially would not answer him when he asked him how long the noise from the saw would continue; that the Witness used profanities and told him to report his concerns to the manager; that he did not use profanities; and that he told the Witness that "if he was someone else he would get his ass kicked".

The Landlord stated that he spoke with the Witness for the Landlord after learning of the incident on December 23, 2010 and he advised the Witness for the Landlord to close the door to the laundry room when he is cutting tiles.

The Agent for the Landlord stated that another employee advised him of the incident on December 23, 2010; that he directed this employee to phone the police; that he attended the residential complex and spoke with the Witness regarding the incident; and that by the time he arrived the Witness had stopped using the saw.

### Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has provided insufficient evidence to show that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord.

On the basis of the undisputed evidence, I find that the Tenant and the Agent for the Landlord had a verbal altercation in December of 2008 and January of 2009. I find, on the balance of probabilities, that both altercations was confrontational and that both parties used inappropriate language. In reaching this conclusion, I was heavily influenced by the evidence of the Landlord who stated that he was present during the

altercation in December of 2008 and he heard both parties using profanity.

The *Act* authorizes a landlord to end a tenancy when a tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. In my view, a heated argument where both parties use inappropriate language does not constitute a significant interference or an unreasonable disturbance. In reaching this conclusion, I note that a landlord or his agents do not enjoy the same right to quiet enjoyment that is granted to the tenant by section 28 of the *Act*. In this situation, I am not convinced that the Agent for the Landlord's behaviour did not contribute, in some way, to the altercation that occurred in December of 2008 and January of 2009.

On the basis of the undisputed evidence, I find that the Tenant and the Witness for the Landlord had a verbal altercation on December 23, 2010. While both parties allege they did not use profanities during this altercation, I find, on the balance of probabilities, that both parties were confrontational during this encounter. In my view this incident does not constitute a significant interference or an unreasonable disturbance. In reaching this conclusion, I find that it is reasonable to conclude that this confrontation would have been less confrontational if the Witness for the Landlord had made some effort to address the noise concerns raised by the Tenant. In my view, offering to close the door to the laundry room would likely have addressed the Tenant's concerns and may have prevented the altercation from escalating.

### Conclusion

As I have determined that the Landlord has not satisfied the legislative requirements to end a tenancy for cause, I am granting the Tenant's application to set aside the One Month Notice to End Tenancy. I find that this tenancy shall continue until it is ended in accordance with the *Act*.

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 26, 2011.

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