



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      CNC

### Introduction

This conference call hearing was convened in response to the tenant's application for a cancellation of a Notice to End Tenancy For Cause.

Both parties attended the hearing and provided affirmed testimony. They presented oral evidence and confirmed receipt of the material they intended to submit at the hearing.

### Issue(s) to be Decided

Is the tenant entitled to a cancellation of a Notice to End Tenancy?

### Background and Evidence

The rental unit consists of a one bedroom apartment in a multi unit complex located in Trail. The month to month based tenancy started on November 1<sup>st</sup>, 2006, at a rate of \$445.00 payable on the first of each month.

Property manager T.C. provided the following evidence:

- On November 24<sup>th</sup>, 2010, T.C. heard the tenant's smoke alarm going off. When T.C. went to the tenant's unit to investigate, the tenant did not allow T.C. inside and T.C. called the fire department.
- On November 27<sup>th</sup>, 2010, the boiler in the complex shut down and the landlord purchased heaters for the tenants, in part to prevent pipes from freezing. The tenant did not allow or accept a heater as offered by T.C.

- The tenant placed a lock to a gate that prevents access to a common area of the property.
- The tenant painted numbers for the parking stalls of the complex without permission.
- The tenant erected barriers at the rear of the building.

The tenant testified that the smoke alarm went off because of burnt toast in the oven and therefore did not allow T.C. in her suite. On November 27<sup>th</sup>, she stated that she did not accept a heater because she already had one. She said that she has since removed the lock to allow access through the gate. Concerning the painting of the parking stalls, she said that this was done in 2007 to facilitate the tenants in the complex. Lastly, the barriers were placed for a garden area in 2006 for which the tenant said she also had permission.

T.C. stated that the main reason for issuing the notice to end the tenancy was the tenant's refusal to give her access to the suite on November 24<sup>th</sup>.

## Analysis

The landlord bears the burden to prove the grounds for issuing the Notice to end Tenancy. It was apparent at the hearing and from the written material provided that T.C. and the tenant do not get along and have trouble communicating. Concerning the cause to end the tenancy, I find that an isolated incident is not sufficient to provide grounds for a decision as serious as ending a tenancy, or that the nature of the incident placed the landlord's property at significant risk. I find the same finding regarding the November 27<sup>th</sup> incident. Concerning the remaining issues, between the variances in the parties' versions and the passage of time since they occurred, I find insufficient evidence to establish that the tenants' action significantly interfered with other tenants or the landlord. Therefore the Notice to End Tenancy is of no effect.



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Notwithstanding, every tenant in a rental unit owes a statutory obligation towards other's right to quiet enjoyment, including the landlord. The landlord has a duty of care and a right to enforce a tenancy pursuant to the Act. Repeated breaches by a tenant do not prevent the landlord from issuing notices to end tenancy in the future or applications for dispute resolution, and the quantum of the evidence at that time may generate a different outcome.

## Conclusion

The tenant's application is upheld 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: January 12, 2011.

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Residential Tenancy Branch