



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes CNC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel the One Month Notice to End Tenancy for cause and to recover the filing fee for this application.

The tenant served the landlord with a copy of the Application and Notice of Hearing in person on February 02, 2011. The landlord confirmed receipt of this package. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

The landlords' agent, the tenant and the tenants' agent appeared. All parties gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

- Is the tenant entitled to cancel the Notice to End Tenancy?

### Background and Evidence

Both Parties agree that this tenancy started on June 01, 2009. The rent for this unit is \$1,050.00 per month and is due on the first of the month. This was a fixed term tenancy until May 01, 2010 but has now reverted to a month to month tenancy.

The landlord testifies that the tenant was served with a One Month Notice to End Tenancy in person on January 31, 2011. This Notice becomes effective on February 28, 2011. The Notice gave the following reasons to end the tenancy:

The tenant or a person permitted on the property by the tenant has:

- Significantly interfered with or unreasonable disturbed another occupant or the landlord
- Seriously jeopardized the health, safety or lawful right of another occupant or the landlord
- Put the landlords' property at significant risk.

The landlords' agent testifies that the tenant came to her office and appeared to be very angry. She states the tenant throw down some plug receptacles from her unit which her boyfriend had replaced. The landlords' agent testifies that she told the tenant she should have brought these repairs to the landlords' attention before changing the receptacles and then the landlord could have made the repairs. The landlords' agent states she told the tenant she would have to speak to the landlord about this and the landlord may seek an eviction because of these repairs. She states the tenant became very angry and started screaming at her. She states she felt very uncomfortable at this outburst and felt threatened by the tenant.

The landlords' agent testifies that in making these repairs without the authorization of the landlord the tenant could have caused damage to the building or started a fire. The landlords' agent states that she has not yet sent her maintenance man to the tenants unit to inspect the repairs.

The landlord seeks an Order of Possession to take effect on February 28, 2011 if the Notice to End tenancy is upheld.

The tenants' agent states the tenant is a Grand-Mal Epileptic and when he went to her unit to help her with a new stereo system she had purchased he found that when he plugged the unit into the receptacles that the plug would just fall out. He found similar issues with a total of four receptacles in her unit and due to the tenants health issues he felt this was a hazard for her and her children because if she fell against one of the plugs during a seizure it could cause harm to her or her children. The tenants' agent reiterates that this was not hazardous for the building but just the tenant.

The tenants agent testifies that he contacted an acquaintance in the restoration business to ask his advice and if it was necessary to obtain a permit to change the receptacles. He states he was advised that he did not require a permit and there was no requirement for a certified electrician to

carry out this work. The tenants' agent states this occurred on a Saturday when the landlords' agents' office was closed so he was unable to contact her.

The tenants' agent testifies that he looked through the tenants' tenancy agreement to see if there were any restrictions on undertaking minor repairs to her unit and found no restrictions were identified in the agreement. Based on this he changed the receptacles to four of the sockets in the tenants unit and insisted that the tenant take the old receptacles to show the manager and explain the repairs made when the office opened.

The tenants' agent states that when the tenant took the receptacles to show the manager an argument ensued between the tenant and the manager and eviction was threatened by the manager. Due to the tenants medical condition she misconstrued the managers' actions as a perceived threat which was exaggerated due to her condition.

The tenants' agent testifies that on February 01, 2011 the tenant was served with the eviction notice. The tenants agent states he contacted an electric company to inquire as to the requirements for changing the wall plug receptacles and was again told that no permit is required that the repair is simple and safe and poses no danger if the fuse box is shut off. The tenants' agent testifies that he also contacted the City of Delta in regards to requirements and the person he spoke to confirmed the advice he had previously been given. He was also advised that defective receptacles are far more of a hazard then there replacement. The tenant has provided evidence from the Electrical Safety Regulations of British Columbia.

### Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. In this matter, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlord's evidence is contradicted by the tenant, the landlord will generally need to provide additional, corroborating evidence to satisfy the burden of proof.

I have taken into account each Parties argument and find the landlord has not provided sufficient evidence to show that grounds exist to end the tenancy for cause based on the

reasons given on the Notice. There is no dispute that the tenants' boyfriend did change the plug receptacles but the landlord has not shown how this has adversely affected the quiet enjoyment, security, safety or physical well being of other occupants or the landlord and has not shown how this has put the landlords' property at significant risk. If the landlord had concerns about these repairs they should have sent their maintenance man or an electrical contractor into the tenants unit to inspect the receptacles replacements. The tenancy agreement in place between the landlord and tenant does not state that tenants may not make minor repairs to their unit and I find from the evidence presented that the repairs were carried out in a safe manner because the tenants boyfriend did turn off the fuse before changing the receptacles and took proper precautions with regard to the advise he sought before and after making the changes.

The landlords' agent argues that she felt uncomfortable and threatened by the tenants' behavior however has not shown how this argument has significantly disturbed either herself or another occupant or that this type of behavior is an on-going issue with the tenant.

Consequently, the Notice is cancelled and the tenancy will continue.

### Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated January 31, 2011 is cancelled and the tenancy will continue. As the tenant has been successful in setting aside the Notice, she is entitled to recover her **\$50.00** filing fee for this proceeding and may deduct that amount from her next rent payment when it is due and payable to the landlord.

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: February 15, 2011.

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Residential Tenancy Branch