



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      CNC, FF

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy, a request for recovery of the filing fee.

### Background and Evidence

The landlords testified that:

- Right after the tenant moved into the rental unit they started getting complaints from other occupants of the rental property of a strong marijuana smell coming through the ventilation system.
- After receiving complaints from the other occupants they went to visit the rental unit, and when the tenant opened the door, the marijuana smell was unbelievably strong.

- They called the police to report the marijuana smell and a constable came to investigate. That constable informed them that the tenant showed them a letter from his doctor that allows him to use medical marijuana for his pain.
- The tenancy agreement signed by the tenant and the landlords states that no smoking is allowed in or around the unit or property.
- The tenant is obviously breaching the tenancy agreement, and therefore they served him with a breach letter which was followed by a Notice to End Tenancy.
- They have also had a problem, ever since this tenant moved in, with someone leaving the security door open, a problem that they never had prior to his tenancy. This is a security issue

The landlord is therefore request that the Notice to End Tenancy be upheld and that an Order of Possession is issued.

The tenant testified that:

- He first got a complaint on the day he was moving in, however he does not smoke marijuana and does not smoke anything in the rental unit.
- When the landlords came to investigate they did not tell them that they could smell a strong marijuana smell.
- The RCMP did come to investigate as well, however at that time he showed the officer his license to use medical marijuana.
- He does use medical marijuana ,however he always makes it into a tea and it is never smoked.
- He never leaves the security door unlocked and in fact seldom goes out as he is presently on house arrest. When he does use the door he always makes sure it's locked as he was told to do so.

The tenant therefore believes that this Notice to End Tenancy should be cancelled and it is tenancy should continue.

Analysis

It is my decision that I find in favour of the landlords and will not set this Notice to End Tenancy aside.

The landlords have given direct evidence of having smelled marijuana coming from the tenant suite, and that combined with the complaint letters, convince me that the tenant is smoking in his rental unit.

The tenant claims that he is using marijuana legally and only makes it into a tea; however I find it very unlikely that the smell would spread through the ventilation system so extensively if he were not smoking it.

Therefore since this is a non-smoking tenancy it is my decision that the tenant has breached the material term of the tenancy agreement and has failed to rectify that breach within a reasonable time after receiving written notice to do so.

Conclusion

The tenants application to cancel the Notice to End Tenancy is dismissed and I have issued an Order of Possession to the landlords at 1 p.m. on March 31, 2011.

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: March 11, 2011.

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Residential Tenancy Branch