



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenants to cancel a notice to end tenancy for cause. Both tenants and an agent for the landlord participated in the teleconference hearing.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

### Background and Evidence

The tenancy began on September 1, 2010. On February 28, 2011, the landlord served the tenants with a notice to end tenancy for cause. The notice indicates that the reason for ending the tenancy, under sections 47 and 48 of the RTA, is that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord, seriously jeopardized the health or safety or lawful interest of another occupant or the landlord, or put the landlord's property at significant risk. The landlord used a form from 2005, which provides a space for particulars. In this space, the landlord provided the following additional information: "Alcohol induced fighting, arguing and noise that is disturbing and scaring the other tenants. Disabling locks so that the manager can not enter during an emergency. See police file."

The landlord's evidence regarding the notice to end tenancy was as follows. On three separate occasions, the tenants disturbed the quiet enjoyment of other tenants. The first incident occurred in late September 2010, when the tenants were engaged in a noisy, violent-sounding altercation which resulted in attendance by the police. The manager at that time gave the tenants a verbal warning.

The second incident occurred on October 20, 2010. Other tenants overheard screaming, yelling and plates being smashed. Police again attended. The landlord

issued a written warning to the tenants, and in that written warning reference was made to the first incident.

The third incident occurred on February 16, 2011. The female tenant arrived at the resident manager's office in an extremely agitated and frightened state. She told the resident manager that the male tenant was drunk and had locked her out of the apartment. The resident manager went with the female tenant to her rental unit. A neighbouring tenant came out of her unit and expressed her concern about whether the male tenant was hurting the female tenant. The male tenant had disabled the deadbolt from the inside. The manager told the male tenant it was illegal for him to disable the lock, and the male tenant then fixed the lock. When the male tenant opened the door, he was obviously intoxicated.

After this incident the resident manager spoke to neighbours on the tenants' floor. All three sets of neighbours told the resident manager that they heard varying degrees of loud and often violent arguing coming from the tenants' unit on a regular basis. They were reluctant to make a written complaint, but one neighbour did provide a full written statement, and another wrote a brief statement indicating that she agreed with the building manager's written statement about the disturbances the tenants were causing.

The manager also spoke to the tenants, and they were adamant that their behaviour was not a problem to the neighbours. Neither tenant showed any inclination to take responsibility for their actions. The landlord consequently felt they had no choice but to issue a one month notice to end tenancy for cause. The landlord orally requested an order of possession in the hearing.

The response of the tenants was as follows. There was no purposeful smashing of dishes, and the female tenant had no recollection of anything being smashed. The tenants do not recall having received a verbal warning for an incident in late September 2010. All of these incidents were during the day, before quiet time, and they amounted to nothing more than roommates disagreeing. The walls of the rental unit are very thin, and if windows are open then conversations can be heard outside. The male tenant regularly attends AA, and he only drank three times in the past six months. When the police attended on two occasions they did not remove him, as they did not see any danger. The tenants believe the building manager is intimidated by the tenant because of his size. The tenants provided written statements from two other tenants who are not disturbed by the tenants. The tenant who provided a written statement for the landlord did not express any fear in her written statement.

### Analysis

In considering all of the evidence, I find that the landlord has provided sufficient evidence to establish that the tenants' behaviour has unreasonably disturbed other occupants, to the extent where the police were called to attend. Although the tenants stated they did not recall receiving a verbal warning in late September, the male tenant did acknowledge that the police attended on two occasions. As the police did not attend on the third occasion, I find it is likely that the two occasions the police did attend were in late September 2010 and on October 20, 2010.

Tenants may not unreasonably disturb other occupants, regardless of the time of day. I find that in this case the tenants have contravened the Residential Tenancy Act by unreasonably disturbing other occupants, and that they are likely to continue to do so. I therefore find that the notice to end tenancy is valid. As the landlord orally requested an order of possession in the hearing, I therefore must grant the order of possession.

### Conclusion

The tenants' application is dismissed.

I grant the landlord an order of possession effective March 31, 2011. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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 18, 2011.

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Residential Tenancy Branch