



# 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 tenant to cancel a notice to end tenancy for cause. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Summary of Background and Evidence

This tenancy began November 1, 2009 with monthly rent of \$900.00. On March 15, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant testified that she is not the cause of the disturbances associated with the drinking and marijuana smoking in the common area of the complex that the landlord is accusing her of. The tenant stated that she has no control over the teenagers that on almost a daily basis come to the property to party. The tenant did admit that her brother is often among the teenagers partying as he went to school with them and lives close by, but that he is not on the property at her invitation. The tenant and her witness both stated that the one remaining park bench, where all the teenagers hang out to party, is the root of the problem and both question as to why the landlord has not yet removed this park bench but has removed all the others.

The tenant stated that she smokes outside as she has a young son and her tenancy agreement states no smoking in the apartment. The tenant did question why the landlord confronted her about smoking outside and told her to go smoke in her rental unit. The tenant repeatedly swore that she does not smoke marijuana and that the marijuana smell in the building is from her next door neighbour. The tenant did question why the landlord, if they believed the tenant to be smoking marijuana, has never knocked on her door to verify the allegation.

The tenant stated that the building is not secure and that allows teens and other people who are not residents, full access to the building. The tenant stated that the teenagers come into the building to use the laundry rooms as hang out spots to smoke marijuana.

The tenant testified that no one, including her brother has keys to her apartment. The tenant stated that the landlord has been repeatedly blaming her for any problems that occur on the property no matter who is involved.

The landlord testified that they cannot confirm that the tenant is always involved in the disturbances but that they believe she is as the disturbances take place outside her apartment window. The landlord stated that the tenant is responsible for her guests IE her brother and believe that the tenant could exert more control on her brother's actions. The landlord stated that after they served the notice to end tenancy that the problem had gotten worse however the landlord also stated that things the past week had gotten better.

The landlord stated that the common area is a known problem for loud parties and that they believe the teenagers gathering there are guests of or somehow related to the tenant. The landlord stated that there have been on-going issues with the tenant and referred to an incident from June 2010 and late 2009. Many of the incidents noted in the landlord's security log refer to teenagers and parties in the common area outside the windows of unit 1202, seldom is there a direct reference to the tenant being present and taking part.

The landlord stated that they have witnessed teenagers gaining access to the tenant's rental unit with a key and believe the tenant's brother has a key.

### Analysis

Based on the documentary evidence and testimony of the parties I find that the landlord has not met the burden of proving that they have grounds to have the 1 Month Notice to End Tenancy for Cause upheld. The landlord in this hearing has not been able to substantiate that the ongoing issues of the partying and smoking of marijuana are a result of the tenant's actions. The landlord's evidence points to 'teenagers', 'groups of people' and 'several young people' being disruptive with no mention of the tenant being present or involved. Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

The tenant understands that while the notice to end tenancy for cause is set aside at this time, should the landlord in the future be able to substantiate problems on the property which are a result of the tenant's actions, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the 1 Month Notice to End Tenancy for Cause.

Accordingly, the notice to end tenancy is hereby set aside and the tenancy continues in full force and effect.

### Conclusion

The landlord's 1 Month Notice to End Tenancy for Cause dated March 15, 2011 is hereby set aside and the tenancy continues in full force and effect.

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: April 12, 2010

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Residential Tenancy Branch