



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on August 22, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to an Order to cancel the Notice to End Tenancy?

### Background and Evidence

This tenancy started on September 1, 2008 as a month to month tenancy. Rent is \$950.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$425.00 on May 22, 2007.

The Landlord said her agent served the Tenant with a 1 Month Notice to End Tenancy for Cause dated August 12, 2011 by personal delivery on August 12, 2011. The Effective Vacancy Date on the Notice is September 12, 2011. The Tenant is living in the unit and the Landlord said she wants to end the tenancy.

The Landlord said the reasons on the 1 Month Notice to End Tenancy are that the Tenant has seriously jeopardizing health or safety of other occupants, putting the landlord property at significant risk and significantly interfering with or unreasonably disturbing another tenant or the landlord.

The Landlord said there were five incidents that lead to the issuing of the 1 Month Notice to End Tenancy and they are as follows:

- 1). The previous tenants moved out of the main house because the Tenant made complaints about them. The Landlord provided an unsigned letter from the previous tenants which said they had differences with the Tenant so they moved out.

- 2). The Tenant owns peacocks and they may cause damage to the new roof on the main house. The Landlord provided photographs of the peacocks on the roof of the house.
- 3). The Tenant has made complaints about the previous tenants and their son to the police.
- 4). The Tenant made complaints about the neighbour cut down trees on his own property which created problems.
- 5). The Landlord said if he Tenant is complaining about the place she lives she should move out life is too short.

The Tenant said the Landlord's claims are untrue and she made the following statements regarding each of the points the Landlord made:

- 1). The previous tenants told her they moved out because the Hydro bills were too high in the main house.
- 2). She does not own the peacocks and if the Landlord wants to remove the peacocks that is fine with her.
- 3). The Tenant said the area is a high crime district and the police were aware of the previous tenant's son before she made any complaints about the tenants or the tenant's son.
- 4). She called the neighbour about cutting the trees down because the chain saw was noisy and she was not sure what trees were being cut down. The Tenant said there is no problem between her and the neighbour.
- 5). The Tenant said she may move to a new rental and if she does she will give the Landlord proper notice, but at the present time she does not have the time to look for a new unit.

The Landlord's Agent C.A. who also lives on the property and collects the Tenant's rent said the Tenant has complained about her and her family spying or watching the Tenant and that the Tenant has said they have stolen things from her. The Landlord's Agent C.A. said the Tenant is disturbing her and her families' tenancy.

The Tenant said she has some concerns with the Landlords Agent C.A. because the Tenant believes they are watching her and may have removed some of her things from the garage. The Tenant said she does not believe she has significantly disturbed the Landlord's Agent C.A. or her family.

The Landlord's agent S.A. said the Landlord is requesting an Order of Possession if the Tenant's application to Cancel the Notice is not successful.

### Analysis

It is apparent from the testimony and evidence that there are issues between the Tenant and the Landlord and the Landlord's agent C.A. The Landlord's agent S.A. suggested a mutual agreement to end this tenancy, but the Tenant did not accept the proposal. Consequently the parties will abide by the following decision. In Section 47 (d) of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at **significant** risk.

In this case it is my finding that the reasons given for ending the tenancy have not reached the level of **unreasonableness, significance or seriousness** required by section 47(d) of the Residential Tenancy Act. I find in favour of the Tenant and Order the 1 Month Notice to End Tenancy for Cause date August 12, 2011 to be cancelled and the tenancy is ordered to continue as set out in the Tenancy Agreement dated September 1, 2008.

As the Tenant has been successful in this matter I order the Tenant to recover the \$50.00 filing fee for this proceeding by deducting it from the October, 2011 rent. The October, 2011 rent is adjusted to \$900.00.

### Conclusion

I order the 1 Month Notice to End Tenancy for Cause dated August 12, 2011 to be cancelled and the tenancy is ordered to continue as set out in the Tenancy Agreement.

The October, 2011 rent payment is adjusted to \$900.00 so that the Tenant can recover the filing fee of \$50.00 for this proceeding from 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*.

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Residential Tenancy Branch