



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## Decision

### Dispute Codes:

CNC

### Introduction

This Application for Dispute Resolution by the tenant was seeking to cancel a One-Month Notice to End Tenancy for Cause dated August 2, 2011. Both parties appeared and gave testimony in turn.

The One-Month Notice to Notice to End Tenancy for Cause, a copy of which was submitted into evidence, indicated that the tenant had put the landlord's property at risk and that the tenant had engaged in illegal activity that has, or is likely to, damage the landlord's property.

### Issue(s) to be Decided

The issue to be determined, based on the testimony and the evidence, is whether the One-Month Notice to End Tenancy is warranted or whether the notice should be cancelled on the basis that the evidence does not support the cause shown. The burden of proof is on the landlord.

### Background and Evidence

In evidence was a copy of the One-Month Notice to End Tenancy for Cause dated August 2, 2011 showing an effective date of October 1, 2011 was in evidence. Other evidence submitted by the landlord included several written statements from other residents in the complex..

The landlord gave testimony that described 3 separate issues that the landlord felt would support the One Month Notice to End Tenancy for Cause.

The landlord testified that at approximately 1:30 a.m. on July 27, 2011, the tenant had taken a mattress and box spring infested with bedbugs from his unit on the 10<sup>th</sup> floor, transported it up in the elevator to the 11th floor and threw it off the balcony, after which the tenant or his associates then hauled the items over the fence, breaking it in the process. The landlord testified that this action damaged property and endangered other residents. The landlord pointed out that others could have been injured by the mattress or box spring falling and there was a hazard created by the potential spread of

bedbugs being throughout the 10<sup>th</sup> floor hallway, the elevator, the 11<sup>th</sup> floor hall way and the rental unit on the 11<sup>th</sup> floor, because the mattress had not been sealed in a plastic barrier as required for health reasons. The landlord stated that he was freely available to deal with the issue, but was never contacted by the tenant. The landlord testified that the tenant's actions caused the landlord additional expenditures because the potentially contaminated areas had to be fumigated. The landlord stated that the nearby fence was damaged by taking the mattress and box spring over it, and provided written testimony from numerous residents stating that the fence had no damage prior to July 27, 2011 but was seen to be damaged thereafter.

The tenant disputed the landlord's version of this incident. The tenant testified that when he discovered bedbugs late in the evening on July 26, 2011, he felt that the mattress and box spring should be removed as quickly as possible and genuinely believed that removal from the balcony was the best option. The tenant stated that he and others placed a tarp around the items and carefully lowered them down to the ground below with a rope. The tenant testified that there was no danger to people or property and in fact, they had a person on the ground to ensure that nobody wandered within range. A witness for the tenant gave testimony to support this. The tenant explained that they had decided not to involve the landlord because he was hard to reach and they were also hesitant to divulge information for fear that it would not be kept confidential. The tenant stated that the items were taken away and were properly disposed of. The tenant stated that the fence had already been subject to damage and the area of the fence broken was not the same area where they had moved the items.

A second matter that the landlord brought forth was an incident in which the tenant was found by police to have some unregistered weapons improperly stored on site.

The tenant acknowledged that some of his hunting rifles were registered as he had inherited them from his father's estate years ago. The tenant pointed out that there was no term in the tenancy agreement prohibiting storage of guns. The tenant testified that there are now no guns on site.

The third issue that the landlord brought up was an allegation by another resident that the tenant had threatened him with harm. The landlord made reference to a written communication from this individual stating that he had been threatened by the tenant on two occasions. This person did not appear as a witness. However, the landlord stated that he had been present when the two men were engaged in a confrontation which looked as if it would escalate. The landlord could not recall on what date this occurred.

The tenant testified that the situation was an argument during which nothing more than words were exchanged and that there was no threat of physical violence.

## **Analysis**

Section 32 requires a tenant to maintain basic hygiene in the unit and common areas and not damage the landlord's property. Section 28 of the Act protects a tenant's right to quiet enjoyment and this right applies to other residents in the complex as well as the tenant himself

With respect to the mattress and box spring removal, I find that the tenant did not intentionally put the landlord's property at risk and had a genuine belief that lowering the mattress over the balcony was a good method of disposal. I find that the written complaints submitted into evidence were likely solicited by the landlord for the purpose of supporting the One-Month Notice to End Tenancy for Cause. I find that the tenant now understands that he should have enlisted the landlord's participation to resolve the bed-bug problem and that it was not appropriate to take matters into his own hands. The tenant clearly understands that such conduct is not to be repeated or the future of his tenancy will be in jeopardy.

With respect to the issue of the guns, I find that the matter was satisfactorily resolved by police with cooperation from the tenant and is no longer a valid concern.

With respect to the alleged threats to another resident, I find that the incident witnessed by the landlord occurred on a date that could not be remembered and evidently raised no alarm at the time. I also find that there was no report to police with respect to the alleged threat. I find that this was clearly an argument involving two parties, and the full extent of what was said and by whom would only be known by the participants in this conflict. I further find that the individual who wrote the complaint letter did so long after the fact.

Given the above, I find it necessary to cancel the One Month Notice. I find that this is a long-term tenancy that has existed, until recently, without significant controversy for over 5 years.

However, the tenant is hereby cautioned that this decision will serve as a warning and the tenant is now aware that if the offending conduct is repeated, it could function as a valid reason for the landlord to issue another Notice to terminate tenancy for cause under section 47 of the Act. In cancelling this Notice, I encourage the parties to communicate in written form in regard to tenancy-related concerns and to retain copies of all communications.

With respect to the landlord's allegations about damage to the fence, I find that the landlord is at liberty to pursue this matter further to seek repayment for repairs if

warranted through an application for dispute resolution should the parties still disagree on the tenant's liability or the amount of compensation.

**Conclusion**

Based on the above, I hereby order that the One-Month Notice to End Tenancy of August 2, 2011 be cancelled and of no force nor 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: September 09, 2011.

---

Residential Tenancy Branch