



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

Some 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 and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is an application that to cancel a Notice to End Tenancy that was given for cause and a request for recovery of the \$50.00 filing fee.

### Background and Evidence

On October 17, 2011 the tenant was served with the Notice to End Tenancy that stated that the tenant or person permitted on the property by the tenant has significantly interfered with her unreasonably disturbed another occupant or the landlord.

The landlord and witness testified that:

- On September 10, 2011 there was loud music and loud talking coming from the backyard of the applicant's rental property.
- The resident manager got a complaint from one of the other tenants at approximately 2:50 a.m. and as a result she went and investigated.
- The resident manager could hear loud music and loud talking coming from the backyard of the rental unit.
- The resident manager did not feel comfortable confronting the people making the noise and therefore she called the police.
- The police came and spoke to the tenants and the music was turned off and there was no further disturbance after that time.
- This was an unreasonable disturbance of the other occupants of the rental property and therefore they want this tenancy ended.

The tenant testified that:

- They were not in the backyard of the property they were actually inside the rental property however they had the patio doors opened and did not realize that their music and talking was disturbing other people.
- Had someone informed them that there was a problem they would have immediately closed the patio doors and stopped any further noise.
- As soon as the RCMP officer informed them that they were disturbing other people they ensured that no further disturbances occurred.
- They believe this Notice to End Tenancy is unjustified and should be cancelled.

### Analysis

It is my decision that the landlords have not shown that the tenants were unreasonably disturbing other occupants of the rental property.

The tenants have admitted that they had their patio door opened while playing music and talking, however no one inform them that their music and talking was disturbing anyone prior to calling the police.

Once the police informed the tenants that their music and talking was disturbing other people they ensured that no further disturbance occurred.

This was a one-time incident that was rectified as soon as the tenants became aware of the problem and is my decision that is not reasonable to end the tenancy based on that one time incident.

### Conclusion

The Notice to End Tenancy dated October 17, 2011 is hereby cancelled and this tenancy continues.

I further Ordered, that the landlord bear the cost of the filing fee paid for this hearing. The tenant may therefore deduct \$50.00 from future rent payable to 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*.

Dated: November 15, 2011.

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Residential Tenancy Branch