



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC and O

### Introduction

This hearing was convened on the tenant's application for monetary compensation or \$2,400 for loss of quiet enjoyment of rental unit arising from disturbances caused by neighbouring tenants.

### Issue(s) to be Decided

Did any action or informed inaction on the part of the landlord cause or permit the disturbances which compromised the tenant's right to quiet enjoyment of the rental unit?

### Background and Evidence

This tenancy began on September 1, 2010 and ended on August 31, 2011 after the tenant gave written notice on July 28, 2011 citing disturbance from neighbours as reason for giving the notice. Rent was \$750 per month and the landlord held a security deposit of \$375.

During the hearing, the tenant submitted that for much of his tenancy, he had been disturbed by loud discussion and arguments between a couple living in a neighbouring rental unit which had on occasion resulted in police attendance at that unit.

The tenant submitted a copy of a letter to the landlord dated January 14, 2011 signed by him, his witness and another party complaining of noise, drug use, heavy drinking, a barking dog, and police calls to the offending unit.

As a result, the landlord issued the offending tenants with a one-month Notice to End Tenancy for cause on January 28, 2011 setting and end of tenancy date of February 28, 2011.

Subsequently, the landlord received a letter signed by six other tenants plus the offending tenant, pleading for her to have a second chance citing her serious health concerns, the probability that she would become homeless, and noting that she had corrected a habit of leaving the door open.

The applicant tenant challenged the letter noting that his witness could not remember signing it and another of the signatories was the son of the offending tenant and his co-tenant. The tenant's witness acknowledge that it did appear to be his signature on the letter, but conceded that he may well have been intoxicated when he signed it and therefore was unable to recall having done so.

In an apparent act of compassion and consideration of the opinions of the other tenants, the landlord wrote to the offending tenant on February 11, 2011 offering to continue the tenancy on the proviso that tenant is subject to no further complaints, keeps her door shut at all times and have an unregistered occupant complete an application for tenancy.

On a question from the landlord, the witness stated that he had lived in the building for about 10 years and that socializing among tenants, including consumption of beverage alcohols, was a norm among most tenants.

The witness gave further evidence that had been subjected to a visit from the offending tenant's male partner sometime in July 2011 in late night hours who accused the witness of stealing his beer and pushed him to the floor.

That incident was reported to the landlord in the applicant tenant's letter off July 28, 2011.

The landlord again issued a Notice to End Tenancy to the offending tenant dated August 26, 2011. It was withdrawn at hearing on October 6, 2011 but whatever factors led to it being withdrawn occurred after the applicant tenant had vacated and are not pertinent to the present hearing.

### Analysis

Section 28(b) of the *Act* codifies the covenant of quiet enjoyment from unreasonable disturbance for all tenants.

However, a landlord cannot be expected to take action to investigate and remedy a loss of quiet enjoyment if the landlord has not been made aware of it

In the present matter, I find that the landlord acted reasonably after receiving the complaint of January 14, 2011 by issuing the Notice to End Tenancy of January 28, 2011. I find the landlord also acted reasonably and fairly in considering the pleadings and promises of the offending tenant and of a majority of the other tenants in the building and replacing the notice with a warning letter and conditions.

The landlord was not formally presented with a further complaint until the applicant tenant brought those forward in his notice to end tenancy of July 28, 2011. The landlord again responded effectively by issuing a new notice to end tenancy to the offending tenant on August 26, 2011.

Therefore, I cannot find that the landlord has contributed to the loss of quiet enjoyment claimed by the applicant either by the landlord's own action, or by inaction in the face of disturbance by others.

Therefore, the application is dismissed on its merits without leave to reapply.

### Conclusion

This application is dismissed without leave to reapply.

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: December 08, 2011.

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Residential Tenancy Branch