



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNC, MT, and OPT

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy; for more time to apply to set aside a Notice to End Tenancy; and for an Order of Possession.

As the Tenant applied to set aside this Notice to End Tenancy within the legislated timelines, I find there is no need to consider his application for more time to apply to set aside a Notice to End Tenancy. As the Tenant remains in possession of the rental unit, I find there is no need to consider his application for an Order of Possession.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Tenant was frequently prevented from giving testimony on matters that did not directly relate to the Notice to End Tenancy. The Tenant repeatedly disrupted the hearing by interrupting the Landlord's testimony; by interrupting me when I was providing direction to him; and by continuing with testimony after being repeatedly advised that the testimony was not relevant. The Tenant's behavior was so disruptive that on at least three occasions the "mute" feature of the teleconference was activated, which allowed the Tenant to hear the proceedings but prevented him from speaking.

The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings. The Landlord submitted no evidence for these proceedings.

This hearing was concluded at 10:24 a.m. I note that the Tenant exited the teleconference at 10:22 a.m., while I was advising the parties that I would be sending them my written decision in the mail.

### Issue(s) to be Decided

The issue to be decided is whether the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, should be set aside.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began on November 01, 2010.

The Landlord and the Tenant agree that a One Month Notice to End Tenancy for Cause was personally served to the Tenant on January 25, 2012, which declared that the Tenant must vacate the rental unit by March 01, 2012. The reasons stated for the Notice to End Tenancy were that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and that the Tenant or a person permitted on the property by the Tenant has seriously jeopardized the health or safety of another occupant or the Landlord.

In support of the Notice to End Tenancy for Cause the Landlord stated that the Tenant has frequently disturbed her by communicating with her regarding personal matters that do not affect the tenancy. She stated that she has received approximately 300 notes from the Tenant since this tenancy began, many of which provide details about his personal activities; details about his medical conditions; and unwanted comments about her personal activities.

The Tenant stated that he has sent the Landlord approximately 100 notes since this tenancy began. The Tenant contends that many of the notes were in regards to deficiencies with the rental unit, although he acknowledges that some of the notes have related to his personal health conditions and some have related to their personal relationship.

Neither party submitted copies of the aforementioned notes.

The Landlord and the Tenant agree that on December 13, 2010 the parties signed an addendum that stipulates the Tenant will “not bother the landlord” and that there will be “no phone calls, no notes, or no unnecessary knocking at the door”. The Landlord stated that the Tenant continued to send her numerous notes of a personal nature after December 13, 2010. The Tenant initially stated that after December 13, 2010 he only sent notes regarding deficiencies with the rental unit. The Tenant subsequently admitted that after December 13, 2010 he also sent several notes regarding his medical issues.

The Landlord and the Tenant agree that the Tenant made repairs to an exterior railing of the residential complex. The Landlord contends that the repairs were inadequate and the Tenant contends that the repairs were adequate.

The Landlord and the Tenant agree that on December 31, 2011 the Landlord's boyfriend was preparing to make further repairs to the exterior railing. The Landlord and the Tenant agree that the Tenant told the Landlord's boyfriend that the boyfriend

could not repair the railing; that her boyfriend left the repair site and left his tools near the repair site; and that the Tenant returned the tools to the exterior of the Landlord's home.

The Landlord stated that she returned to the repair site with her boyfriend later that morning; that the Tenant came out and began yelling profanities at them, including that he would kill them if he had a gun; and that her boyfriend repaired the railing.

The Tenant stated that he was "very angry" because the boyfriend was repairing the railing; that he did not believe the repairs being made to the railing were necessary; that he did not believe the repairs being made to the railing were adequate; that the Landlord was preventing him from accessing the repair site by blocking his path down the stairs; that he attempted to prevent the repairs by unplugging the drill the boyfriend was using; and that he stated "if I owned a gun I would shoot you both in the forehead".

The Landlord stated that the Tenant knocked on her front door at approximately 6:00 p.m. on December 31, 2011; that she did not answer the door on that occasion as she was afraid to speak with the Tenant; that the Tenant knocked on her front door again at approximately 8:00 p.m. on December 31, 2011; that she did not answer the door on that occasion as she was afraid to speak with the Tenant; that the Tenant knocked on her front door again at approximately 10:30 p.m. on December 31, 2011; that she answered the door on this occasion and observed that the Tenant was carrying an object she described as a "heavy 2 foot hose"; that he placed the object between the door and the door frame to prevent her from closing the door; and that she pushed him out of her home.

The Tenant stated that he did not go to the Landlord's front door until 9:45 p.m. on December 31, 2011; that the Landlord answered the door when he knocked; that he was carrying an object he described as a "flex bar" used for exercising; that he took this object with him because he was afraid the Landlord would hit him; that the Landlord attempted to slam the door in his face after she opened it; and that he placed the object between the door and the door frame in an attempt to protect himself.

The Landlord and the Tenant agree that the Landlord gave the Tenant a breach letter, dated January 12, 2012, which was submitted in evidence. The Landlord stated that when she gave the Tenant this letter she intended to end the tenancy but simply wished to provide the Tenant with adequate warning.

The Landlord stated that since the breach letter was served on the Tenant the occupants of the lower rental unit have told her that the Tenant was "harassing" them about the laundry. The Landlord was unable to provide any details regarding the date or the nature of the harassment. The Tenant stated that he has had no discussions with the lower occupants regarding laundry since 2010.

## Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has provided sufficient evidence, when considered in its entirety, to show that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord.

In reaching this conclusion I was influenced, in part, by the undisputed evidence that the Tenant continued communicating with the Landlord regarding personal matters even after he signed an addendum in which he agreed to discontinue such contact. Although at the hearing the Tenant did not appear to appreciate that such contact was inappropriate, this contact constitutes, in my view, an unreasonable disturbance, particularly after the Tenant has signed an agreement to discontinue unnecessary contact.

In determining that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord I was further influenced by the undisputed evidence that the Tenant interfered with the Landlord's efforts to repair an exterior railing, by being verbally abusive and by disconnecting a power toll required for the repair. In reaching this conclusion I specifically note that a landlord has a right and a responsibility to make repairs to residential property, and that a tenant does not have the right to prevent a landlord from maintaining his property. In the event a tenant believes residential property is unsafe or in need of repair, the correct recourse is to file an Application for Dispute Resolution seeking an Order requiring the Landlord to make repairs.

In determining that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord I was heavily influenced by the undisputed evidence that the Tenant told the Landlord and her boyfriend that he would harm them if he had a gun. I find that most reasonable people would be disturbed by such a statement, particularly when it is uttered in anger while the parties are engaged in a verbal confrontation.

In determining that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord I was heavily influenced by the undisputed evidence that the Tenant went to the Landlord's home on at least one occasion on the evening of December 31, 2011 and prevented her from closing her front door by placing an object between the door and the door frame. I find that most reasonable people would be disturbed by such conduct, particularly after the parties have had a relatively serious conflict earlier that same day.

I discount the Tenant's testimony that he placed the object between the door and the door frame to protect him, as the argument lacks credibility. Generally speaking it is faster and easier to simply back away from a door that is being closed than it is to place an object between the door and the door frame.

Of particular concern to me regarding the incident on the evening of December 31, 2011 is that the Tenant brought an object with him to the Landlord's door, which could reasonably be perceived as a weapon. In determining that it could be perceived as a weapon I note that the Tenant contends he brought this object with him for "protection", which suggests it would be used as a weapon, albeit for self-defense. I find that bringing this object with him significantly contributed to the unreasonable disturbance he caused on this date.

In determining whether this tenancy should end I have given consideration to the fact that the Tenant has not created a disturbance since he was provided with the breach letter dated January 12, 2012. As the Landlord did not end this tenancy on the basis of the fact that the Tenant has failed to correct a material term of the tenancy agreement after being given written notice to do so, pursuant to section 47(h) of the *Act*, I find that the fact that the Tenant has not caused a disturbance since January 12, 2012 to be largely irrelevant. In these circumstances, I find that the disturbances caused by the Tenant were of such significance that an end to this tenancy is warranted even though there have been no recent disturbances.

In reaching the conclusion that this tenancy should end I was influenced, to some degree, by the Tenant's behaviour at the hearing. As the Tenant exhibited no remorse or understanding that his reaction(s) were inappropriate I am deeply concerned that this conflict could escalate if the tenancy was to continue.

### Conclusion

As I have determined that the Landlord has satisfied the legislative requirements to end a tenancy pursuant to section 47(d)(i) of the *Act*, I dismiss the Tenant's application to set aside the One Month Notice to End Tenancy.

The Landlord did not request an Order of Possession at the hearing and no such Order has been granted.

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: February 27, 2012.

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Residential Tenancy Branch