



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT, OPC, RP

### Introduction

This hearing dealt with an application by the tenant for more time to make an application, to cancel a notice to end tenancy for cause and to order the landlord to make repairs.

Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

On April 1, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause; the tenant has damaged the landlord's property.

The tenant has request in this application, more time to make an application. However as the landlord's notice to end tenancy was served on April 2, 2012 and the tenant's application made April 11, 2012, additional time to make an application is not required. Therefore the tenant's application for more time is dismissed.

The landlord testified that on March 17, 2012 a guest of the tenant's came to the tenant's rental unit kicked and damaged the door and smashed personal items of the tenant's inside the apartment. The landlord replaced the door but advised the tenant in writing on March 17, 2012 that the tenant would be required to clean and paint the replacement door. The tenant was also advised that he would be charged \$50.00 for the replacement door. The landlord on March 22, 2012 advised the tenant in writing, that if any additional damaged occurred by the tenant or his guests that the tenant would be served an eviction notice.

The landlord stated that on March 31, 2012 he had to attend the tenant's rental unit at 12:15AM with the police as a guest of the tenant's was being verbally and physically assaulted by the tenant. The landlord stated that calm was restored however another

fight broke out around 1:30AM in the hallway and spilled outside where chairs and a table were broken. The landlord stated that there was also blood everywhere which the tenant made no effort to clean up. The landlord stated that it was after this second incident that an eviction notice was served on the tenant.

The tenant testified that the first incident was no fault of his as the person who caused the damage and disruption was coming to see one of the tenant's guests and showed up uninvited. The tenant stated that this is a secure building but that the lock on the entry doors are taped over so that tenants can easily let their pets in and out of the building, this however allows access into the building by anyone.

The tenant stated that the second incident happened when a guest of his who was intoxicated, was asked to leave by the tenant. The tenant stated that when he showed his guest out, his guest became upset at being asked to leave and attempted to attack the tenant who responded by defending himself. The tenant maintained that neither incident was his fault and his tenancy should not end as a result.

The landlord stated that this is not the first incident involving the tenant and his guests fighting and causing disturbances in the building. The landlord stated that the tenant has been given warning letters in the past and served eviction notices. The landlord stated that he has also come to arbitration 2 or 3 times to evict the tenant but has never been successful. The tenant acknowledged that this was true and he had copies of all the warning letters in front of him however this documentation was not submitted into evidence by either party.

The tenant stated that the landlord had advised him during a conversation that he would no longer be responsible for paying the \$50.00 cost for fixing the door however the landlord stated that he had never said any such thing. Therefore the tenant's application for the landlord to make repairs is dismissed.

### Analysis

Based on the documentary evidence and testimony of the parties I find that there is insufficient evidence to uphold the Notice to End Tenancy for Cause.

The onus or burden of proof is on the party making the claim and in this case the landlord has claimed there is cause to end this tenancy and the tenant does not agree. The landlord must prove he has cause to end this tenancy and when one party provides testimony/evidence of the events in one way and the other party provides an equally probable but different testimony/evidence of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails.

I find that the landlord has failed in his burden of proving he has cause to end this tenancy. The landlord has provided documentation regarding this tenancy and any

previous warning letters issued to the tenant to establish that there is a continuing pattern of disturbances. The evidence submitted for this hearing is limited at best and has dates of incidents that had to be corrected in the hearing by the landlord.

As explained in the hearing, had the landlord submitted evidence of the previous warning letters this hearing may have had a very different outcome and it is up to the tenant to ensure that neither he nor his guests cause disruptions in the tenant's rental unit or the building.

The tenant understands that that if the tenant's behaviour creates problems on the property in the future, the record of these events would form part of the landlord's case should it again come before a dispute resolution officer for consideration.

The landlord's 1 Month Notice to End Tenancy for Cause dated April 2, 2012 is hereby set aside with the result that the tenancy continues uninterrupted.

#### Conclusion

**The landlord's 1 Month Notice to End Tenancy for Cause dated April 2, 2012 is hereby set aside with the result that the tenancy continues uninterrupted.**

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: May 2, 2012

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Residential Tenancy Branch