



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for cause.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were sent to the landlord by registered mail on April 20, 2012. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the verbal submissions were made by the tenant. On the basis of the evidence presented at the hearing, a decision has been reached.

### Issue(s) to be Decided

- Is the tenant entitled to cancel the Notice to End Tenancy?

### Background and Evidence

The tenant confirms that this month to month tenancy started on January 24, 2012. The rent for this unit is \$700.00 which is due on the first day of each month.

The tenants' evidence shows she was served with a One Month Notice to End Tenancy by the landlord on April 10, 2012. This Notice has an effective date of May 13, 2012 and gave the following reasons to end the tenancy:

- 1) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has
  - (ii) Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

The tenant disputes the landlords claim that she has engaged in an illegal activity that has adversely affected the quiet enjoyment, security or physical well being of another occupant or the landlord. The tenant testifies an incident occurred at Easter when the tenant's mother was with the tenants children at the rental unit. The children were excited after eating chocolate and the tenant in the unit below called the RCMP. The tenant states the RCMP informed the tenant later that her neighbour had called them because she thought someone was being harmed in the tenant's home. The tenant states this is untrue and seeks to have the One Month Notice cancelled.

### Analysis

The landlord did not appear at the hearing to dispute the tenants' claims, despite having been given a Notice of the hearing; therefore, in the absence of the landlord I have carefully considered the tenant documentary evidence and affirmed testimony before me.

In this matter, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlord does not provide any evidence to satisfy the burden of proof and the tenant disputes the notice then I cannot uphold the reason given on the notice.

Therefore, I find that the landlord has not provided sufficient evidence to show that grounds exist to end the tenancy and as a result, the Notice is cancelled and the tenancy will continue.

Conclusion

The tenant's application is allowed. The one Month Notice to End Tenancy for Cause dated, April 10, 2012 is cancelled and the tenancy will continue.

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 09, 2012.

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Residential Tenancy Branch