



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to cancel a one month notice to end tenancy for cause issued on April 23, 2012.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

In a case where a tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

### Preliminary Issue

The tenant did not receive the landlord's documentary evidence for this hearing and there was no evidence to indicate a copy was sent to the tenant. Therefore, the landlord's documentary evidence is inadmissible and this hearing will proceed on the testimony of the parties.

### Issue(s) to be Decided

Should the notice to end tenancy issued on April 23, 2012, be cancelled?

### Background and Evidence

The tenancy began on December, 1, 2011. Rent in the amount of \$725.00 was payable on the first of each month. A security deposit of \$362.50 was paid by the tenant.

The parties agree that a one month notice to end tenancy for cause was served on the tenant indicating that the tenant is required to vacate the rental unit on May 31, 2012.

The reason stated in the notice to end tenancy was 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;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- put the landlord's property at significant risk.

The landlord's agent testified on December 27, 2012, they received a complaint from another occupant in the building that there was loud fighting in the tenant's unit. The landlord's agent stated there was a second incident on that day with the tenant and her son fighting and the police were involved.

The landlord's agent testified on February 15, 2012, and February 16, 2012, they received complaints from two different occupants that the tenant's son was playing his music very loud.

The landlord's agent testified on February 17, 2012, the tenant was provided written notice, that any further complaints of loud music or fighting would result in a notice to end tenancy.

The landlord's agent testified on March 16, 2012, the police were called as the tenant's son was playing his extremely music loud and when she attended the unit he refused to answer the door. The landlord's agent stated later that day the tenant's son came to her office demanding to know why she had called the police and she asked him to leave her office or she would call the police. The response for the tenant's son was "What do you think he is going to do".

The landlord's agent testified on April 22, 2012, the police and fire department were called as the tenant's son had started a grease fire in a pot. Instead of leaving the pot on the stove, the pot was placed in the hallway on the floor causing damage to carpet and seriously jeopardized the safety of the other occupants.

The landlord's agent testified on April 23, 2012, the police were called as they received a complaint that the tenant's son was firing a pellet gun into the parking area. This cause them significant concerns as it could seriously jeopardized the safety of other occupants.

The landlord's agent testified that on April 23, 2012, they issued the notice to end tenancy for cause.

The landlord's agent testified since April 23, 2012, they continue to receive further incident reports regarding the behaviour of the tenant's son.

The tenant testified that she acknowledge she received the warning letter dated February 17, 2012. The tenant stated there have been a few incidents with her son.

### Analysis

Based on the above, the testimony and evidence, an on a balance of probabilities, I find as follows:

After considering all of the oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show 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;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- put the landlord's property at significant risk.

In this case, the tenant acknowledged receipt of the written warning letter provided by the landlord dated February 17, 2012, the letter notified the tenant that if there were any further incidents the landlord would be seeking notice to end tenancy.

Since the warning was issued the police attended on March 16, 2012, when the tenant's son was playing loud music and he refused to answer the door when the landlord attended.

On April 22, 2012, the tenant's son placed a burning pot of oil on the floor in the hallway and the police and fire department attended.

On April 23, 2012, the police attended when the tenant's son was firing a pellet gun into the parking area.

In this case, the tenant was provided sufficient warning by the landlord to correct the behaviour of loud music. The tenant's son continued to unreasonably disturb the other occupants in the building with loud music.

Further, the incidents of the tenant's son firing a pellet gun in to the parking area and placing a burning pot in the hallway on the floor, seriously jeopardized the health or safety of other occupants and put the landlord's property at significant risk.

Therefore, I dismiss the tenant's application to cancel the one month notice to end tenancy issued on February 23, 2012. The tenancy will end on May 31, 2012, in accordance with the Act.

As the tenant's application is dismissed and the landlord has made an application for an order of possession, pursuant to section 55 of the Act, I must grant this request.

Section 55(1) of the Act states: Order of possession for the landlord

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing, (a) the landlord makes an oral request for an order of possession, and (b) the director dismisses the tenant's application or upholds the landlord's notice.

As I have dismissed the tenant's application, I find that the landlord is entitled to an order of possession effective **MAY 31, 2012, at 1:00 P.M.**

This order must be served on the tenant and may be filed in the Supreme Court.

### Conclusion

The tenant's application to cancel a one month notice to end tenancy for cause is dismissed.

The landlord is granted an order of possession.

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 17, 2012.

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Residential Tenancy Branch