

## **Dispute Codes:**

CNC,

## **Introduction**

This Application for Dispute Resolution by the tenant was seeking to cancel a One-Month Notice to End Tenancy for Cause dated April 30, 2012.

Both parties appeared and gave testimony during the conference call.

## **Issue(s) to be Decided**

The issue to be determined, based on the testimony and the evidence, is whether the One-Month Notice to End Tenancy should be cancelled. The burden of proof is on the landlord.

## **Background and Evidence**

A copy of the One-Month Notice to End Tenancy for Cause dated April 30, 2012, was in evidence showing an effective date of May 31, 2011. The Notice had been served by placing a copy in the tenant's mailbox on April 30, 2012. Other evidence from the tenant included written testimony.

I note that section 90 of the Act provides that a document served by posting it or placing it in the tenant's mailbox is deemed to have been served on the 3rd day after it is attached, which would be June 2, 2012.

The One-Month Notice indicated that the tenant had significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and that the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property, and 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 landlord testified that complaints were received from other residents about noise from the tenant's unit. No evidence was submitted by the landlord.

The tenant acknowledged that they did make noise after hours, but testified that the situation was rectified and would not happen again. The tenant confirmed that she realizes that a recurrence of such behavior will place the tenancy in jeopardy.

## **Analysis**

Section 28 of the Act protects a tenant's right to quiet enjoyment and this right applies to all residents in the complex. I find that the landlord did not provide sufficient proof for much of the conduct described.

Accordingly, I grant the tenant's application.

In cancelling this Notice, I caution the tenant that this decision will serve as a warning that, if any significant interference or unreasonable disturbance is inflicted on the landlord or other residents in the complex in future, it could be considered as a valid reason to justify issuing and serving the tenant with another Notice to terminate tenancy for cause under section 47 of the Act.

### **Conclusion**

Based on the above, I hereby order that the One-Month Notice to End Tenancy of April 30, 2012 be cancelled and of no force nor effect.

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 29, 2012.

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Residential Tenancy Branch