



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

CNC

### Introduction

This hearing was convened on the tenant's application of April 30, 2012 to have set aside a one-month Notice to End Tenancy for cause, dated April 23, 2012 and setting an end of tenancy date of May 31, 2012. The notice cites the causes for ending the tenancy as breach of a material term of the rental agreement not corrected within a reasonable time after written notice to do so, and failure to do required repairs of the rental unit.

### Issue(s) to be Decided

Did the tenant fail to correct a material term of the rental agreement within a reasonable time of written notice and has she tenant failed to do required repairs of the rental unit to a degree that warrants ending the tenancy.

### Background and Evidence

During the hearing, the landlord submitted into evidence two warning letters and a number of photographs in support of the Notice to End Tenancy of April 23, 2012.

By letter of March 21, 2012, the landlord advised the tenant of a number of deficiencies noted during an inspection of the unit on March 12, 2012. They included:

- Strong odours suggesting a concern for hygiene;

- Clutter throughout the rental unit creating a concern for fire safety;
- Large numbers of flies on fly tape indicating possible maggots in garbage;
- Garbage in and around the unit;
- Leaking garbage potentially damaging sub flooring;

The letter noted that the problems constituted a breach of the rental agreement (section reproduced), cautioned that failure to correct the housekeeping deficiencies would result in a Notice to End Tenancy and set a follow up inspection for March 23, 2012.

By letter of March 30, 2012, the landlord reviewed the inspection of March 23, 2012 and, while acknowledging marginal improvement, noted that odours remained and the source could not be detected due to clutter. The letter repeated the pertinent section of the rental agreement, reiterated an ongoing concern for health and hygiene and identified a concern for a fire hazard created by clutter around the hot water tank.

The letter also noted:

- Plants on sills and floors in improper containers as damaging;
- Odour from fish tank;
- Unsightly clutter on the balcony creating a potential for rodents;
- Excessive clutter in the garage with food present, creating another rodent risk.

The letter acknowledged some improvement in cleaning up cigarette butts in the yard, provided a contact number for an assistance worker with the housing society and scheduled another inspection for April 23, 2012, stating that if the unit was not found to be cleaned up, a Notice to End Tenancy would be served.

When the landlord found the balcony in the same state on April 23, 2012, she wrote to the tenant advising that she was issuing a Notice to End Tenancy to take effect on May 31, 2012.

By way of explanation, the tenant stated that health challenges (supported by a letter from her doctor), a recent spousal break-up and a sense of being treated disrespectfully by the landlord had been contributing factors to the problems.

She submitted letters of support from her grandmother, her sister, her estranged spouse and a long-time friend attesting to her being a good mother to her two children and to some difficulties relating to the landlord.

The tenant submitted a number of photographs taken on April 24, 2012 showing some improvement, but the landlord stated that during a follow up inspection on May 7, 2012, conditions had returned to their former state and noted that there were rodent droppings in the garage.

The landlord also submitted detailed evidence on May 8, 2012 in support of a claim that the tenant has caused some damage to the rental unit.

### Analysis

Section 47(1)(h) of the *Act* provides that a landlord may issue a Notice to End Tenancy for cause in circumstances in which:

the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so

In the present circumstances, I find that the landlord gave clear written notice of a material breach of the rental agreement and that the tenant failed to comply within a reasonable time.

Therefore, I find that the Notice to End Tenancy of April 23, 2012 was lawful and valid and I cannot set it aside. The tenant's application is dismissed without leave to reapply.

On hearing that determination, the landlord did not request an Order of Possession but expressed a willingness to continue to attempt to rescue the tenancy provided the tenant would make a commitment to comply with the rental agreement and the legislation.

To that end, the landlord had already contacted an outreach program to assist the tenant, but held that initiative in abeyance when she received the present application.

The parties stated that they will attempt to craft an agreement whereby the tenant will agree to:

1. Bring the rental unit to an acceptable standard within one-month of the hearing date and maintain it to that standard;
2. Work with an outreach worker/life skills coach to enhance her housekeeping and parenting skills;
3. Commit to a reasonable longer term remediation plan to address damage to the rental unit;
4. Other possible considerations the parties might wish to include.

The landlord remains at liberty to make application for an Order of Possession.

#### Conclusion

The Notice to End Tenancy of April 23, 2012 is upheld.

The application is dismissed without leave to reapply.

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 23, 2012.

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Residential Tenancy Branch