



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** CNC, FF

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause and for the recovery of the filing fee. Both parties attended the hearing and had opportunity to be heard.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy began on November 01, 2011. The rental unit is located in an apartment building. The tenant and his mother occupy the rental unit. On March 07, 2012, the landlord received a complaint from the occupant of the unit located adjacent to the dispute rental unit. This occupant complained of the odor of excrement emanating from the dispute rental unit. On March 08, 2012, the resident caretaker conducted an inspection of the rental unit.

The caretaker testified that during the inspection she noticed the foul odor in the rental unit. The door to the mother's bedroom was barricaded in what appeared to be an attempt to keep the mother from leaving the room. Inside the bedroom there was a portable toilet placed on the carpet and the odor in the bedroom was so foul that the caretaker had difficulty breathing. The caretaker stated that she requested the tenant to have the rental unit cleaned and brought up to reasonable health and sanitary standards.

On May 29, 2012, the occupant of the unit directly above the dispute rental unit complained of the odor from the tenant's unit. The landlord served the tenant with a warning letter on May 31, 2012. The caretaker inspected the unit on June 07 and found that the tenant had placed a plastic sheet over the door of his mother's bedroom in what appeared to be an attempt to keep the odor from leaving the bedroom.

The caretaker stated that the odor in the rental unit was extremely foul and was mixed with the odor of a cleaning fluid which smelt like vinegar. The caretaker stated that the odor was so overpowering that she had to leave the unit. Again, the tenant was requested to take steps to clean the unit.

The landlord received further complaints on June 18 and June 27. On June 27, 2012, she served the tenant with a notice to end tenancy for cause. The reason for the notice was that the tenant had breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

During the hearing the reasons for the notice were discussed at length. The landlord provided sufficient evidence to support the reason for the notice to end tenancy. However at the request of the advocate for the tenant, the landlord agreed to give the tenant one more chance to comply. The parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

### **Analysis**

Pursuant to Section 63 of the *Residential Tenancy Act*, the dispute resolution officer may assist the parties settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle their dispute. Specifically, it was agreed that the landlord would withdraw the notice to end tenancy and allow the tenancy to continue. Both parties agreed to the following terms:

1. The tenant agreed to have the rental unit cleaned and rid of all odors on or before August 27, 2012.
2. The tenant agreed to allow the landlord to conduct an inspection of the rental unit during the week of August 27, 2012
3. The tenant understood that if the unit was not brought up to reasonable standards of cleanliness and the odors were not completely eliminated, the landlord will serve the tenant with an eviction notice.
4. The landlord agreed to allow the tenancy to continue as per the above terms.
5. Both parties confirmed that they understood and agreed to the terms of this agreement.

The tenant would be wise to seek help to render his rental unit clean and free of odors from this date on. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before a Dispute Resolution Officer, for consideration.

**Conclusion**

The notice to end tenancy is set aside and the tenancy will continue as per the above terms.

As this dispute was resolved by mutual agreement and not based on the merits of the case, I decline the tenant's request to recover the filing fee paid for this application

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: July 19, 2012.

---

Residential Tenancy Branch