



# 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 One Month Notice to End Tenancy for Cause dated August 7, 2012.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the "hearing package") by registered mail on August 14, 2012. Section 90(a) of the Act says a document delivered by mail is deemed to be received by the recipient five days later. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlords' absence.

### Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?

### Background and Evidence

This fixed term tenancy started on July 1, 2012 and expires on December 31, 2012. On August 7, 2012 the Landlords served the Tenant with a One Month Notice to End Tenancy for Cause dated August 7, 2012. The grounds alleged on the Notice were as follows:

- The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- The Tenant has engaged in illegal activity that has or is likely to:
  - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
  - Jeopardize a lawful right or interest of another occupant or the Landlord.

The Landlords did not attend the hearing to give oral evidence but instead provided documentary evidence that included a copy of a letter sent to the Tenant dated August 8, 2012, an unsigned witness statement of the building manager, E.B., and witness statements from two unidentified deponents alleged to be tenants of the rental property. In the letter dated August 8, 2012, the Landlords claimed that they were serving the

Tenant with the One Month Notice because *“there has been an individual who is known to be involved in the trade of illicit drugs at your premises on several occasions over the last week.”* The witness statement of E.B., states that during the weekend of August 3<sup>rd</sup> to 6<sup>th</sup>,

*“several tenants conveyed to me their concerns about this dealer being on the property as we had had problems with people dealing from here before. I was also informed by a couple of the tenants that they had seen a male visitor to [the rental unit] selling drugs to people at the back door of the unit.”*

The unidentified deponents of the other two witness statements corroborate the claims made by E.B. The Tenant disputed the claims made by the Landlords and specifically denied having any knowledge that any guest of hers was involved in selling illicit drugs.

### Analysis

In this matter, the Landlords have 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.

The Landlords did not attend the hearing to give oral evidence and I give no weight to the documentary evidence they submitted. In particular, I find that the letter of the Landlords dated August 8, 2012 is based on (double hearsay evidence or) the witness statement of the building manager, E.B., whose evidence in turn was based on the hearsay evidence of what he was allegedly told by other tenants. The other tenants who provided statements however are not identified and therefore there is no way to test the reliability of the information set out in their statements. Consequently, I find that there is no reliable evidence of any of the grounds alleged in the One Month Notice to End Tenancy dated August 7, 2012 and accordingly it is cancelled.

### Conclusion

The Tenant's application is granted; the One Month Notice to End Tenancy for Cause dated August 7, 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: September 13, 2012.

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Residential Tenancy Branch