



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **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 August 15, 2012.

The One-Month Notice to Notice to End Tenancy for Cause, a copy of which was submitted into evidence, indicated that the tenant had seriously jeopardized the health, safety or lawful right of another occupant or the landlord of the residential property and that 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.

Both parties appeared and gave testimony during the conference call.

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

Should the One-Month Notice to End Tenancy for Cause be cancelled?

The burden of proof is on the landlord to justify the Notice.

### **Background and Evidence**

A copy of the One-Month Notice to End Tenancy for Cause dated August 15, 2012, was in evidence showing an effective date of September 30, 2012. The landlord testified that there was an alarming incident that occurred on July 28, 2012 in which the tenant had seriously jeopardized the health, safety and lawful right of other occupants and 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.

The landlord testified that this incident involved reports and complaints from several witnesses who alleged that the tenant had brandished a knife along with a threat of physical harm against other residents, whom he accused of watching him and filming his activities. The landlord testified that the police were called and the tenant was removed from the premises and detained for a period of approximately three weeks. The landlord testified that, although this tenant has resided in the complex for over two

decades without significant problems, the nature of this incident, that being threats of harm to others with a weapon, would justify terminating the tenancy for cause in the interest of protecting the other occupants of the complex. The landlord testified that some residents have been influenced by this incident to terminate their tenancies.

The landlord stated that they are aware that the tenant has a disabling condition, but that the tenant had also used illicit drugs in the past that affected his mental stability. The landlord wants the tenancy ended for cause.

The tenant acknowledged that he did display a knife to two men who were menacing him. The tenant testified that he did this out of fear for his personal safety and to convince them not to attempt to harm him. The tenant stated that he had no intention of using the knife and admitted that it was a mistake to engage in a confrontation with the other residents, regardless of what was said to him.

The tenant stated that, although he was taken into custody by the police, he was not charged with any criminal code offense and in fact was placed in treatment.

The tenant testified that people are watching him and this fact has caused him extra stress. The tenant testified that he had been suffering severe depression over the death of his mother and is under the care of a doctor. The tenant submitted a note from his physician stating that his mental health has stabilized now and that treatment for depression and pain will continue.

The tenant stated that he is aware that, he is accountable for his own conduct as it affects others, even if there are medical or personal reasons for the offending behavior and regardless of what provocation from others occurs. The tenant stated that this one unfortunate incident should not be used to terminate his long-term tenancy and he is requesting that the One Month Notice to End Tenancy for Cause be cancelled.

### **.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 had no choice but to respond to reports and complaints about one tenant showing a weapon to others during an argument. I find that the tenant's use of illegal drugs is a complicating factor that does not serve to excuse conduct of this nature.

I find that although this matter is extremely serious, it is likely that threats were made by both parties and I accept the tenant's testimony that he merely displayed the knife to show that he would protect himself with the underlying hope that this would prevent what he believed was an imminent assault by more than one person. However, I also find that the tenant had the option of not communicating with these individuals and he

should have removed himself from the vicinity, instead of engaging in the confrontation. Had he done that, he would not have placed his tenancy in serious jeopardy.

I find that:

- This was a single incident and the tenant disputes part of the allegations
- It appears that there are no transgressions of this nature in the past.
- No previous written warnings are apparently on the tenant's file
- The tenancy has spanned in excess of 20 years without incident
- The tenant has accepted that a recurrence of anything of this nature will likely be just cause to terminate the tenancy
- The tenant went to treatment and is currently under a doctor's care

Given the above, I find that this One Month Notice to End Tenancy for Cause should be cancelled. However, the tenant is cautioned that this decision will serve as a warning and the tenant has acknowledged that, if any significant interference or unreasonable disturbance is inflicted on the landlord or other residents in the complex going forward, this could be considered as a valid reason to justify issuing another Notice to terminate tenancy for cause under section 47 of the Act.

In cancelling this Notice, I order that henceforth the tenant express all of his concerns to the landlord, or the police if it involves criminal issues, and not to express his concerns or opinions to other residents. I order that the tenant restrict all communications to the landlord written form unless an urgent response is required. I encourage the landlord to do the same in communicating with this tenant.

In addition, I order that the tenant must also refrain from the following conduct.:

- Directly approaching other residents with complaints or opinions
- Responding to negative remarks or argumentative commentary from others
- Conversing with people who are not receptive to your presence
- Yelling, arguing, accusing ,confronting, threatening or accosting others
- Using illicit drugs
- Monitoring/following any individual, gesturing, or making inappropriate observations about them or their conduct.

**Conclusion**

Based on the above, I hereby order that the One-Month Notice to End Tenancy of August 15, 2012 is canceled 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: September 19, 2012.

---

Residential Tenancy Branch