



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MT

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request for an order canceling a Notice to End Tenancy, and a request for more time to file an application to cancel a Notice to End Tenancy.

### Background and Evidence

On September 10, 2012 the landlord served the tenant with a one month Notice to End Tenancy for cause.

The tenant was dealing with mental health issues at the time and was hospitalized shortly after the notice was given and therefore her dispute of the notice was not filed until October 12, 2012. The applicant is requested more time to dispute the notice and given the fact that she was hospitalized it is my decision that I will grant that request.

Below then I deal with the request to cancel the Notice to End Tenancy:

The landlord and landlord's witnesses testified that:

- The tenants suite is in very poor condition, and therefore the tenant was given two weeks to clean up the apartment, however the day before the inspection was to take place she came to ask for more time.
- The tenant was informed that the inspection would take place as scheduled however at the time of the inspection the tenant became verbally and physically abusive.
- The tenant was yelling and swearing very loudly to the point where other tenants in the rental property were coming out their doors to see what was going on.
- The tenant blocked entrance to the elevator and became very obnoxious and aggressive.
- Once in the tenants suite the tenant picked up a vase and threw it at the landlord hitting the landlord in the back. The vase bounced off and shattered.
- The tenant went out on the balcony and was screaming and as we feared she may be going to attempt suicide the police were called.
- The police had difficulty with her as well however eventually they were able to take her away.
- The tenant has serious mental health issues that are affecting the enjoyment of the rental property for the other occupants and the manager.
- They are therefore requesting that this Notice to End Tenancy be upheld.

The tenant testified that:

- She has been dealing with health issues, and mental health issues since May and was in distress at the time.
- Due to the mental health issues she could not control her situation and therefore may have acted inappropriately.
- She did seek medical assistance and was subsequently hospitalized to deal with these mental health issues.
- She does not recall being as aggressive as described, however she may have been, but believes that she should be allowed to stay in the rental unit because she is dealing with her mental health issues.

The tenant advocate testified that:

- These incidents occurred because the tenant was out of control due to mental health issues; however she is dealing with those mental health issues as best she can, and has sought professional help.

### Analysis

I accept the tenants and the tenant advocates testimony that the tenant is dealing with mental health issues, however when those mental-health issues significantly interfere with the rights of the other occupants of the rental unit, the landlord does have the right to end the tenancy.

In this case it is my finding that the tenant's behaviour does significantly interfere with the rights of the other occupants and the landlord, and therefore I will not be setting aside the Notice to End Tenancy.

This tenancy therefore ends pursuant to that notice and the landlord has the right to apply for an Order of Possession.

### Conclusion

This 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: November 13, 2012.

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Residential Tenancy Branch