



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNR

### **Introduction**

This hearing dealt with the Tenant's application cancel a *One Month Notice to End Tenancy for Cause* (the Notice) issued October 31, 2012.

The parties and the Tenant's witness gave affirmed testimony and had an opportunity to be heard and respond to other party's submissions.

It was established that the Landlord received the Notice of Hearing documents and copies of the Tenant's documentary evidence by registered mail sent November 5, 2012..

The Tenant acknowledged receiving the Landlord's documentary evidence by mail on December 3, 2012. The Tenant stated that she wished to proceed and did not require an adjournment in order to review, or reply to, the Landlord's documentary evidence.

### **Issue to be Decided**

Should the Notice issued October 31, 2012, be cancelled?

### **Background and Evidence**

The Landlord's agent testified that 3 or 4 times since September, 2011, the Tenant invited strangers into the rental property late at night and that those strangers broke the front door or left it open. The Landlord's agent could not be specific about dates that these events occurred. The Landlord's agent submitted that this is a security risk to the other occupants in the building.

The Landlord's agent testified that there are 15 apartments in the rental property, 6 of which are on the Tenant's floor. He stated that 4 other occupants who lived on the Tenant's floor have moved out of the rental property because of the Tenant's actions.

The Landlord provided copies of two written statements of other occupants in the building. The Tenant provided a written statement from one of these occupants, in which the occupant states, "I have lived across from [the Tenant] for approximately one year and at no time have I felt her conduct has been disruptive, nor have I witnessed any actions towards other tenants in the building or the building itself that could be construed as harmful or destructive". The other typewritten statement provided by the Landlord was originally written in support of the Tenant, but on the bottom of the statement is a message recanting that support, "This letter is invalid. I felt obligated and threatened by Shona by her possible revenge." (reproduced as written).

The Tenant's advocate stated that the Tenant did not know the specifics as to why the Notice was issued until she heard the details during the Hearing, when the Landlord's agent gave his verbal testimony. The Tenant's advocate stated that the front door buzzer is broken and that the locks were changed because of an incident with an occupant on another floor. He stated that the police were called as a result of the incident.

The Landlord's agent stated that he told the Tenant a number of times about her guests leaving the door open. He testified that he did not provide the Tenant with written warnings.

The Tenant's witness is the occupant who recanted her letter in support of the Tenant. She testified that she moved out of the rental unit on November 1, 2012, because she had a cat and there was a "no pets" clause. She testified that she lived in the rental property for three years and that she never felt threatened by the Tenant. The witness stated that she wrote the message on her letter recanting her support because the Landlord threatened to withhold her security deposit if she didn't do so.

The Landlord's agent denied that he had coerced the witness into recanting her letter of support and questioned the value of the witness's testimony because she said one thing, then another, and then yet another. The Landlord's agent stated that no other occupants wanted to give evidence because they are afraid of the Tenant.

The Tenant's advocate asked that the Tenant be awarded the cost of serving the Landlord with her Notice of Hearing documents and evidence.

### **Analysis**

There is no provision in the Act for either party to recover the cost of serving another party and therefore, I decline to award the Tenant these costs.

The Notice gives the following reasons to end the tenancy:

Tenant or a person permitted on the property by the tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the landlord
- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- Put the landlord's property at significant risk

The Tenant denied that her invited guests had damaged the rental property or left the front door unsecure.

The Landlord's agent was very vague about the dates that the alleged incidents occurred or the dates that he had warned the Tenant about her invited guests' behaviour.

The Landlord provided written statements from two of the four occupants that apparently left the rental unit because of the Tenant's, or her guests', actions. However:

1. One of the written statements is merely a notice that an occupant is ending his tenancy. There is no mention of the reason why. The Tenant provided a written statement from that same occupant, stating that he did not find the Tenant's behavior while he was living in the rental property to be disruptive, harmful or destructive.
2. The other written statement is from the Tenant's witness. I agree with the Landlord's agent that I cannot rely on the witness's letter because she first wrote that the allegations against the Tenant were "baseless, outrageous and utterly ridiculous", then recanted her original statement in writing, and finally gave different evidence orally at the Hearing.

For the reasons noted above, I find that the Notice to End Tenancy is not a valid notice and grant the Tenant's application to cancel the Notice to End Tenancy. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

### **Conclusion**

The Notice to End Tenancy issued October 31, 2012, is cancelled. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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: December 10, 2012.

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Residential Tenancy Branch