



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPC, FF

### Introduction

This hearing dealt with a tenants' application to cancel a 1 Month Notice to End Tenancy for Cause, as amended, and a landlord's application for an Order of Possession for cause. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

Should the Notice to End Tenancy be upheld or cancelled?

### Background and Evidence

The tenancy commenced April 1, 2010 and the tenants are required to pay rent of \$885.00 on the 1<sup>st</sup> day of every month. The landlord served the tenants with a 1 Month Notice to End Tenancy for Cause on April 2, 2013 (the Notice). The Notice indicates the reason for ending the tenancy is because "the tenant or persons permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord gave the following reasons for issuing the Notice:

1. The landlord received two complaints from two different tenants about loud music and loud yelling on March 29, 2013 and when the landlord knocked on the door of the rental unit there was no answer. The landlord called the RCMP who attended the scene.
2. A guest of the tenant has frequently and repeatedly parked in parking spots assigned to other occupants despite bringing this to the attention of the tenant on a number of occasions and sending all residents a letter warning tenants to not park in parking spots not assigned to their unit.

3. The tenant became angry and stormed out of the landlord's unit when she requested he pay a late payment fee when he paid rent late on April 2, 2013.

In response, the tenant stated:

1. He had an out of town guest in the unit March 29, 2013 who became intoxicated and out of control. The tenant tried dealing with the guest but was unsuccessful before the landlord called the RCMP. The tenant submitted that this was the only complaint they had received in the three years of tenancy.
2. The tenant acknowledged that a guest has parked in assigned parking spots for approximately 20 minutes and that the tenant had asked his guest to stop doing so. The tenant initially submitted that there were a number of empty parking spots when his guest parked in an assigned spot and did not appear to appreciate the inconvenience to other tenants. Nevertheless, the tenant was under the impression that the consequence for illegal parking was that his guest would be towed and if that were to happen again the guest would surely not illegally park again. The tenant agreed to inform his guests to either park in visitor parking or on the street in the future.
3. The tenant acknowledged he was upset about the landlord trying to charge him a late fee when he has paid rent late before without consequence but the landlord had characterized his behaviour as merely rude in serving the 1 Month Notice.

After hearing from both parties I informed the parties of the provisions of certain parts of the Act and Residential Tenancy Regulations, including: the requirement for late payment fees to be recorded in the tenancy agreement; and, the tenants' responsibility to ensure their guests do not unreasonably disturb or significantly interfere with other occupants' use or quiet enjoyment of the property. As a result of further discussion:

- The tenants understood that they are responsible for the actions of their guests and agreed that disturbing behaviour within their unit, or elsewhere on the property, by their guests will not be permitted to continue.
- The tenants will ensure their guests park in either the visitor parking spaces or on the street in the future.
- The landlord will investigate whether the tenancy agreement for these tenants contains a provision for late payment fees and will provide the tenants with another copy of their tenancy agreement if it does.
- As rent has been accepted late without consequence in the past, the landlord will communicate to the tenants that payment of the rent on the 1<sup>st</sup> day of every month will be expected in the future.

## Analysis

Upon considering from both parties, I cancel the Notice to End Tenancy issued April 2, 2013 with the effect that this tenancy shall continue. I cancel the Notice based upon the following considerations:

- I find that the one disturbance of March 29, 2013 warrants a written warning rather than a Notice to End Tenancy when I consider this tenancy has been largely successful for over three years.
- I am also satisfied that the tenants now fully appreciate and understand that they are responsible for ensuring their guests park in visitor parking spaces only, or on the street, and that further violations by their guests may be viewed as disturbing or interfering with other occupants or the landlord.
- The tenants now fully appreciate and understand that their tenancy agreement requires them to pay rent on the 1<sup>st</sup> day of every month and that the tenants may be subject to paying a late fee, if the tenancy agreement provides for such.

This decision shall serve as a written warning to the tenants that they are responsible for the actions of their guests while on the property and that unreasonable disturbance or significant interference of other occupants or the landlord by the tenant's guest is a basis for ending a tenancy.

I make no award for the filing fee.

## Conclusion

The Notice to End Tenancy has been cancelled and the tenancy continues. This decision shall serve as a written warning to the tenants that they are responsible for the actions of the persons they invite or permit on the property and that the future behaviour of their guests may be grounds for the landlord to end the tenancy.

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: May 01, 2013

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Residential Tenancy Branch