



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPC, MNR, FF

### Introduction

This was a hearing with respect to applications by the tenants and by the landlord. The hearing was conducted by conference call. The tenants and the landlord called in and participated in the hearing. The landlord's husband attended with the landlord. The tenants applied to cancel a one month Notice to End Tenancy for cause. The landlord applied for an order for possession pursuant to the Notice to End Tenancy and later amended her application to claim payment of the sum of \$248.51 said to be owed for unpaid utilities.

### Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled? Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award for unpaid utilities?

### Background and Evidence

The rental property is a house in Maple Ridge. The tenants rent a suite in the upper portion of the house. Until recently the lower suite was rented to other tenants, but the landlord was ordered by the municipality to stop using the lower suite as a rental unit. The occupants of the downstairs unit moved out in April.

On March 17, 2014 the landlord served the tenants with a one month Notice to End Tenancy for cause. The stated ground for the Notice to End Tenancy is that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord. The Notice to End Tenancy was given based on reports from the downstairs occupants that the tenants were frequently getting intoxicated and fighting with each other. The landlord said she became aware of this after the matter was reported to her.

The landlord referred to written statements provided to her by the downstairs occupants wherein it was alleged that the tenants have had loud drunken parties and have had loud fights disturbing fights. They referred to an incident on March 31<sup>st</sup> that caused them to call the landlord to complain. The matter was reported to the police.

The tenants submitted an application to dispute the Notice to End Tenancy. They disagreed that there were grounds to end the tenancy, however, at the hearing the tenants testified that they have made arrangements to move and will be out of the rental property by May 15<sup>th</sup>. The tenants consented to the granting of an order for possession effective on May 15<sup>th</sup>. They said that they notified the landlord by e-mail that they were moving and instructed her to apply the security deposit to the rent for May. The landlord denied receiving any such communication from the tenants.

On April 28<sup>th</sup> the landlord amended her application to include a claim for \$248.51, said to be due for utilities. The landlord said that she sent an e-mail to the tenant request payment of part of an outstanding utility bill. She said that she took a picture of the bill with her phone and sent that to the tenants.

### Analysis

The landlord has alleged that there is cause for ending the tenancy; the grounds are based upon a written statement by the downstairs occupants who were not present to give testimony at the hearing. The tenants have disputed the grounds for ending the tenancy, but they testified that before the hearing they gave the landlord notice that they were moving out of the rental unit. I find that the landlord has not established on a balance of probabilities that there are sufficient grounds to uphold the Notice to End Tenancy for cause, but pursuant to the notice given by the tenants and their consent at the hearing I grant the landlords an order for possession effective May 15<sup>th</sup>.

With respect to the landlord's claim for payment of utilities in the amount of \$248.51, the landlord has not provided the tenant with a copy of the utility bill and the evidence present by the landlord is not sufficient to establish that the tenants are liable for the amount claimed. This aspect of the landlord's application is dismissed with leave to reapply.

### Conclusion

Pursuant to the consent of the tenant I grant the landlord an order for possession effective May 15, 2014, after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that court. The landlord's application for a

monetary award for unpaid utilities is dismissed with leave to reapply. I do not award a filing fee with respect to either application.

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 08, 2014

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Residential Tenancy Branch

