



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy dated June 2, 2014 was sufficiently served on the Tenant by mailing, by registered mail to where the tenant resides on June 2, 2014. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business on June 10, 2014. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the one Notice to End Tenancy dated June 2, 2014?

### Background and Evidence

The tenancy began on July 15, 2013 when the parties entered into a fixed term tenancy that provided that the tenancy would end on July 31, 2014 and become month to month after that. The tenancy agreement provided that the tenant(s) would pay rent of \$1500

per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$750 prior to the start of the tenancy.

#### Grounds for Termination

The Notice to End Tenancy relies on section 47(1)(d) of the Residential Tenancy Act.

That section provides as follows:

Landlord's notice: cause

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

...

(d) the tenant or a person permitted on the residential property by the tenant has

...

(iii) put the landlord's property at significant risk;

The relevant evidence presented by the landlord is as follows:

- The rental unit is new. On April 10, 2014 he conducted an inspection in the absence of the tenant (the tenant was aware of inspection) and discovered the tenant was using the second bedroom as a woodworking area.
- During the inspection he discovered there was benches, tools, a number of coffee tables and chairs.
- The room was heavily coated with dust.
- On April 11, 2014 he gave the tenant a letter demanding that he get rid of the wood cutting tools and stop using the bedroom as a woodworking area.
- The use of the area as a woodworking area creates a fire hazard and the amount of dust created causes significant wear and tear.

The tenant disputes the landlord's allegations and denies that his use of the second bedroom creates a significant risk to the rental unit. In particular the tenant testified:

- He does not use power tools in the second bedroom and the amount of dust created is limited. In particular he does not use a table saw or band saw on the premises.
- He uses hand tools which cause wood shavings but not dust.
- Woodworking is a hobby of his which he undertakes a couple of hours a week.
- He places tarps on the floor to catch the wood shavings and then vacuums after use.
- He acknowledged the presence of coffee tables and chairs in the second room when the landlord inspected in April. Those items have been removed. They were built at a off site location where he was taking a woodworking course and they were left in the second bedroom temporarily.
- His hobby is to construct small wood decorative boxes that have a dimension of approximately 7" x 5" x 5".
- He does not keep flammable liquids in the rental unit.

### Analysis

The landlord has the burden of proof to establish sufficient cause to end the tenancy on a balance of probabilities. After carefully considering all of the evidence I determined the landlord has failed to establish that the tenant has put the landlord's property at "significant risk" as required under section 47 of the Residential Tenancy Act. The landlord has failed to prove there is a greater risk of fire because of the actions of the tenant. In the absence of evidence to the contrary I determined the tenant does not keep flammable products in the rental unit for staining his projects. I accept the testimony of the tenant that the wood shavings are removed immediately after he has finished his work for the day.

Further, the landlord failed to prove there was an excessive amount of dust created by the tenant which might lead to a significant risk to the rental property. I accept the testimony of the tenant that he does not use power saw which create dust. I determine the dust created by the use of the hand tools is limited and does not amount to a

significant risk to the rental property. Further, I accept the testimony of the tenant that the large items being the coffee tables and chairs were not made on the premises and were left there temporarily.

Determination and Orders

After carefully considering all of the evidence I determined that the landlord has failed to establish sufficient cause to end the tenancy. **As a result I ordered that the Notice to End Tenancy be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.**

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: July 30, 2014

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Residential Tenancy Branch

