



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### 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 was sufficiently served on the tenant. 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 resides on June 10, 2014.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a.      Whether the tenant is entitled to an order cancelling the one month Notice to End Tenancy dated (in error) July 6, 2014? I ordered the date of the Notice amended to read June 6, 2014 setting the end of tenancy for July 6, 2014
- b.      Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The tenancy began on April 1, 2013. The tenancy agreement provided that the tenant(s) would pay rent of \$300 per month payable in advance on the first day of each month.

The landlord testified as follows:

- In June 2013 the tenant yelled at his wife and as a result the police were called.
- He needs the tenant to move out because he needs the space for his own personal use.

The tenant(s) denied yelling at the landlord's wife. He testified the landlord's father in law began moving his personal property out and he demanded the father in law to stop. In order to avoid further confrontation he called the police. He further testified the real reason the landlord wants him to move is that he refused to pay the rent increase demanded by the landlord (from \$300 per month to \$380 per month).

### 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

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

### Analysis

The landlord has the burden of proof to establish sufficient cause to end the tenancy based on a balance of probabilities. After hearing the disputed evidence I determined

the landlord has failed to prove that the tenant has significantly interfered with or unreasonably disturbed the landlord or has seriously jeopardized the health or safety or lawful right of the landlord. The landlord failed to prove the conduct of the tenant has significantly threatened or interfered with or unreasonably disturbed. If anything, the actions of the landlord in demanding an illegal rate of interest and attempting to remove the tenant's belongings has played a prominent role in the dispute between the tenant and the landlord's wife.

Further, it appears the real reason the landlord wishes to end the tenancy as stated by the landlord is so that he can move in and use the rental unit. If that is the case the landlord must act in good faith and use a 2 month Notice to End Tenancy following the procedures set out in the Residential Tenancy Act.

#### 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 one month Notice to End Tenancy be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged. As the tenant has been successful with his application I order that the landlord pay to the tenant the cost of the filing fee in the sum of \$50 such sum may be deducted from future rent.

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 31, 2014

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Residential Tenancy Branch

