



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This is an application to cancel a Notice to end Tenancy that was given for cause.

Some documentary evidence, photo evidence, and written arguments have been submitted by the parties prior to the hearing.

I have given the parties and the witness the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issue is whether or not uphold or cancel a Notice to end Tenancy that was given for the following reasons:

- tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturb another occupant or the landlord
  - seriously jeopardized the health or safety or lawful right of another occupant of the landlord
  - put the landlord's property at significant and risk
- tenant has engaged in illegal activity that has or is likely to:
  - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

### Background and Evidence

At the beginning of the hearing the landlord stated that the section on illegality activity was given in error and therefore he has withdrawn that portion of the Notice to End Tenancy.

The landlord testified that:

- He has had too many complaints from tenants over the years and has lost three tenants due to this tenant's behavior.
- The tenant leaves notes for other tenants in the rental property including some nasty notes.
- The two female tenants who are now in the rental property have both told him that they want to move out.
- Both tenants have provided written statements about this tenant's behavior.
- The applicant/tenant has also burned things on the stove on numerous occasions which has caused the other tenants to vacate the rental property due to the amount of smoke, and he believes this is a safety issue for the other tenants, plus they're afraid for their safety.
- He is afraid of losing more tenants due to this tenant's behavior, and therefore he wants this tenancy ended.

The applicant/tenant testified that:

- Most of the claims made by the landlord are exaggerated.
- He did write some notes for other tenants, however he does not believe they are unreasonable, as they were either friendly notes, or notes written to try and resolve issues at the rental property without involving the landlord.
- He does not think any tenants have vacated due to his behavior and in fact he believes the other tenants likely vacated due to inability to pay the rent.
- He does not dispute that the other tenants have said they want to move out of the rental property; however he does not believe that it is his fault.
- He did burn some food, on one occasion only, but he does not believe this is reasonable grounds for ending the tenancy.
- The witness letters provided by the landlord are much exaggerated and he does not believe there's any reason to end his tenancy.

The tenants-(brother) witness testified that:

- He has never seen the applicant drunk, and he visits the applicant at least once a week and sometimes up to three times a week.
- The applicant does drink some beers, but does not become intoxicated.

In response to the tenant's testimony and the tenants witness's testimony the landlord testified that:

- He has to take the other tenants word for what's going on especially after so many complaints, and therefore he had to take action and end this tenancy.

### Analysis

The burden of proving a claim lies with the person making the claim and when it is just the landlord's word against that of the tenant that burden of proof is not met.

In this case it is my finding that the landlord has not met the burden of proving his claims that the tenant has:

- significantly interfered with or unreasonably disturb another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant of the landlord
- put the landlord's property at significant and risk

The evidence provided by the landlord consists mainly of three letters that the landlord claims are from other tenants, however two of those letters are unsigned and therefore are of little evidentiary value, and the third letter, which is signed, is from a tenant who no longer lives in the rental property and therefore is no longer affected by the alleged claims.

Further, although the applicant/tenant has admitted leaving notes around the rental property, there is nothing in those notes that would be extreme enough to be consider significant interference with the other occupants of the rental property.

Further although the landlord claims that the tenant has burned food on the stove on numerous occasions, he has provided no evidence in support of that claim and the tenant claims that it only occurred on one occasion.

Therefore since the landlord has not met the burden of proving the reasons given for ending this tenancy, I will allow the tenants request to cancel the Notice to End Tenancy.

Conclusion

The one-month Notice to End Tenancy dated June 30, 2014 is hereby canceled and this tenancy continues.

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: September 24, 2014

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Residential Tenancy Branch

