



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            CNC, OPT, LAT, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause issued on September 1, 2014 (the "Notice").

In addition to seeking a cancellation of the Notice, the Tenant also sought an Order authorizing the Tenant to change the locks on the rental unit and to recover the cost of filing the application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing. The Landlord also called two witnesses. The Tenant was granted the opportunity to cross examine those witnesses.

In a case where a Tenant has applied to cancel a notice for cause Residential Tenancy Branch Rules of Procedure require the Landlord to provide their evidence submission first, as the Landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issue to be Decided

Should the Notice be cancelled?

### Background and Evidence

The Landlord testified as the tenancy and stated that the tenancy began on July 1, 2014. Rent in the amount of \$500.00 was payable on the first of each month.

The parties agree that the Notice was served on the Tenant indicating that the Tenant is required to vacate the rental unit on October 1, 2014.

The reason stated in the notice to end tenancy was that the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- put the landlord's property at significant risk;
- cause extraordinary damage to the unit/site or property/park; and,
- not done required repairs of damage to the unit/site.

### LANDLORDS EVIDENCE

The Landlord testified that she began renting the entire rental home from the property owner, D.F., in April of 2014 and that she lives there with her three children. The Landlord testified that the Tenant is not on her tenancy agreement with the property owner, but that she spoke to D.F. and he agreed that the Landlord could act as his agent and could therefore permit the Tenant to reside in the rental home as a subtenant.

The Landlord testified that the Tenant moved into the basement of the rental home on July 1, 2014. The parties did not enter into a formal residential tenancy agreement, although the Landlord did sign the Ministry of Social Development and Social Innovation "Shelter Information" Form indicating rent was payable in the amount of \$500.00 per month.

Although the basement has as separate kitchen and bathroom, the Landlord and the Tenant shared the entire house and the Landlord's daughter resided in the basement sharing the same kitchen and bathroom with the Tenant. As the Landlord does not own the property, section 4(c) does not apply.

As to her reasons for issuing the Notice, the Landlord testified as follows:

- After only two weeks of living in the rental unit, the Tenant began to decompensate. According to the Landlord, every couple of weeks, the Tenant had a "mental breakdown" which would involve her yelling and screaming and breaking items. The Landlord stated that on numerous occasions, when the Tenant has had such mental breakdowns, the Tenant or others have called the police.
- In August 2014, during the Tenant's last "mental breakdown" the Tenant called the police because she believed she was a potential harm to herself, the Landlord as well as the Landlord's children. On this date, the Tenant threw her vacuum on in the back yard,

broke a chair, broke flower pots and was yelling and screaming in the basement and outside (the "August Incident").

- The Tenant has threatened the Landlord and guests of the Landlord including a four year old child.
- The Tenant shoved the Landlord's daughter's boyfriend.
- The Tenant punched and damaged two doors in the rental home.
- The Tenants dog has caused damage to the carpet.
- The Landlord and her children do not feel safe around the Tenant.

The Landlord called T.N. as a witness. T.N. testified that when the Tenant first moved in, she socialized with the Landlord and the Tenant both upstairs and down. She stated that a couple weeks later, the Tenant's behavior deteriorated.

T.N. stated that she personally observed the Tenant's behavior and referred to the "first incident" as follows. T.N. was at a barbeque at the rental house and the Tenant was upset about a comment a four year old had made about her being a "stranger who might be on drugs". According to T.N., the Tenant was also very upset that the children had been hired to clean up after the family dog when the Tenant felt she was more in need of financial assistance. T.N. stated that she personally witnessed the Tenant yelling and screaming and verbally abusing the Landlord.

T.N. also confirmed that she was at the rental house during the August 2014 incident and saw the items the Tenant had thrown out on the lawn. She testified that she believed that the Tenant did the right thing by calling the police as the Tenant believed she was a danger to herself. In general, T.N. stated that she would be very concerned about having the Tenant live in her home and that she did not believe it was healthy for the children to be around the Tenant. She personally witnessed the police in attendance at the rental home at least three times.

The Landlord also called J.B. as a witness. J.B. testified that he helped the Tenant move into the rental home. He testified that after two weeks the Tenant "flipped out" and continued to do so every couple of weeks. He said that she created uncomfortable scenes, would yell and scream and was obviously very angry. J.B. stated that he was aware the Landlord's daughter stopped sleeping downstairs as she felt so uncomfortable around the Tenant; instead, she slept on the couch upstairs.

### TENANTS EVIDENCE

The Tenant testified that she believed she was renting an all-inclusive furnished suite, not a room in the rental house. She acknowledged that the Landlord's daughter used the downstairs bathroom on occasion, but that she bathed upstairs in the Landlord's bathroom.

When asked to respond to the Landlord's allegations about her behavior the Tenant stated that all her behavior was a reaction to the Landlord's disrespectful behavior and that she simply speaks her mind and defends herself. She acknowledged that she had a long history of mental health issues and can be a danger to herself.

The Tenant testified that her space was constantly invaded by the Landlord and the Landlord's children and that she would "freak out again if anyone walked into her suite again". When asked what she meant by "freak out" she responded that she "punched out a door" and that she would yell and scream. She testified that all her "freaking out" occurred outside, not in the house, aside from the time she damaged the two doors.

The Tenant stated that the "straw" was the August 2014 incident when the Landlord came into the basement at 3:00 p.m. and told the Tenant to let her dog out. She alleged that the Landlord's son barked in her ear. She said that she was holding one of the Landlord's son's plants in her hands and the pot simply "exploded". When she attempted to clean it up with her vacuum, she "beat up" her vacuum because it didn't work, threw it outside on the yard and punched a "door or two".

The Tenant stated that she had an agreement with the property owner about repairing the damage.

The Landlord denied any such agreement existed, only that she did not believe she should be responsible for paying for or repairing the Tenant's damage.

### Analysis

After considering all of the written and oral submissions submitted at this hearing, and on a balance of probabilities, I find that the landlord has provided sufficient evidence to show that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord;

I accept the evidence of the Landlord, as well as the witnesses T.N. and J.B., that the Tenant's behaviour unreasonably disturbs the Landlord and her children. While the Tenant attempts to blame the Landlord and her son for the Tenants reaction, I find her behaviour during the August 2014 incident to be sufficient to substantiate the Notice.

The Tenant admitted to calling the police because she felt she was at risk of harming herself. There was no dispute that the police have been called on numerous occasions.

While the Tenant denies threatening others, I accept the Landlord's evidence that the Tenant has threatened her. I also accept the Landlord's evidence that the children feel unsafe with the Tenant in the rental home and I accept J.B.'s evidence that the Landlord's daughter does not feel safe being in the basement with the Tenant. I find that the Tenant's behaviour seriously jeopardized the health or safety or lawful right of the Landlord and the Landlord's children.

Therefore, I dismiss the Tenant's application to cancel the Notice. The tenancy will end in accordance with the Notice. The balance of the Tenant's application is also dismissed.

### Conclusion

The Tenant's application to cancel the Notice is dismissed. The balance of the Tenant's relief sought is also dismissed.

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: November 13, 2014

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Residential Tenancy Branch

