



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VISTA REALTY AND EURAM INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC OPC FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47; and
- b) To recover the filing fee for this application.

Service:

The tenant/applicant did not attend. The landlord gave sworn evidence that the Notice to End Tenancy which is dated November 13, 2014 to be effective December 31, 2014 was served personally on the tenants. The landlord gave evidence that they personally received the Application for Dispute Resolution from the tenant. I find the documents were legally served for the purposes of this hearing.

### **Preliminary Issue:**

The landlord requested the tenant's name on the Decision and Order be amended to the full names of the tenant and his wife. I find the tenancy agreement and the Notices to End Tenancy were issued in the full names of both tenant and his wife so the Decision and Order are amended in accordance.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to relief? Should filing fees be recovered by the tenant?

Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### **Background and Evidence**

The tenant/applicant did not attend the hearing. After waiting 10 minutes, the hearing proceeded and concluded in his absence. The landlord's agent attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions.

The undisputed evidence is that the tenancy commenced in January 2014, rent is \$1500 a month and a security deposit of \$750 was paid on December 6, 2013. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- b) The tenant has breached a material term in not paying all of the security deposit.

The landlord provided four letters in evidence plus many emails from complaining tenants. She said there had also been many voice mails from tenants of other buildings complaining about this tenants' behaviour. The letters and complaints all recount noise problems such as banging and moving furniture and loud arguments even in the early hours of the morning. The landlord said the tenant had been sent warning letters and verbally cautioned and he had promised to tone it down but the noise problems always restarted so they had to end the tenancy to ensure some peaceful enjoyment to the other tenants in this building and surrounding buildings.

In his application, the tenant said the Police had been called about noise but they acknowledged they had come to the wrong apartment. The landlord acknowledged this had happened once but she said no caution had been issued for that instance and all the complaints submitted as evidence related to other instances.

Included with the evidence is the Notice to End Tenancy, a tenancy agreement, letters and complaints dated in January, April, June and November 2014 complaining about noise of the tenants. No documentary evidence was provided by the tenant.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

As stated to the landlord in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant.

I find the evidence of the landlord credible and I prefer it to the evidence of the tenant in respect to the causes cited, namely, that they or a person permitted on the property by them have significantly interfered with or unreasonably disturbed another occupant or the landlord. Four tenants in their letters and numerous emails support the landlord's oral sworn testimony that these tenants frequently make loud noises and have arguments late at night and into the early morning hours. I find the weight of the evidence is that these tenants and guests significantly disturb the peaceful enjoyment of other tenants in the building as they are kept awake by the noise. I find the weight of

the evidence does not support the written submission of the tenant that the Notice to End Tenancy was issued due to one mistaken visit by the Police.

For all of the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on December 31, 2014.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed; no filing fee is awarded to the tenant. The tenancy is at an end. As requested by the landlord in the hearing and pursuant to section 55 of the Act, an Order of Possession is issued to the landlord effective two days from service.

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: January 06, 2014

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Residential Tenancy Branch

