



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF, MT, CNC

### Introduction

This is a Review Hearing granted for the tenant where both parties have filed applications. The landlord seeks an order of possession as a result of a notice to end tenancy issued for cause and recovery of the filing fee. The tenant seeks an application for more time to be allowed to make an application to cancel a notice to end tenancy issued for cause and if allowed to obtain an order to cancel a notice to end tenancy.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence.

After waiting 10 minutes past the start of the hearing time, the tenant's application was dismissed without leave to reapply as the landlord was present to respond to the dispute.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?

### Background and Evidence

The landlord states that there is no signed tenancy agreement with the tenant and that he is the only tenant with the owner, R.G. as per a signed tenancy agreement. The landlord clarified that he sublets the rooms in the rental property to others and shares the space. The landlord stated that the monthly rent was \$550.00 payable on the 1st of each month.

The landlord states that the tenant was served with a 1 month notice to end tenancy issued for cause dated November 19, 2014 in person on the same date. The notice displays an effective end of tenancy date of December 19, 2014.

The landlord confirmed that two reasons for cause were selected.

Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord states that the tenant assaulted another tenant. The landlord relies on a submitted copy of a Details of Digital Evidence summary. It states on "Clip\_5" "Dan physically blocking the top floor common area from everyone". The tenant stated in his direct testimony that the police attended and determined that this was a consensual fight and not an assault.

The landlord also states that the tenant has placed a lock on a door to the common space and was given a hand written letter on December 2, 2014 to remove the lock to allow the other tenants to access the shared space.

### Analysis

I find that the landlord has failed to provide sufficient evidence that the tenant assaulted another tenant. The landlord stated in his direct testimony that the police attended and determined that this was a fight by the consent of both parties. The landlord relies on a description of "Clip\_5" which states, "Dan physically blocking the top floor common area from everyone" is insufficient to justify a determination of an assault. As such, on the first reason for cause, I find is insufficient and that this portion of the claim is dismissed.

On the landlord's second reason for cause of breach of a material term of the tenancy, I find that the landlord has failed to provide sufficient evidence to satisfy me of a breach. The landlord has failed to provide a copy of the written notice provided to the tenant or any details to support this claim.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's application is dismissed for lack of sufficient evidence.

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: February 13, 2015

