



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Canadian Mental Health Association  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            OPC, OPB, FF

### Introduction

This was a hearing with respect to the landlord's application for an order for possession. The hearing was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenant attended with the named person present for support, but not as a representative.

### Issue(s) to be Decided

Is the landlord entitled to an order for possession pursuant the one month Notice to End Tenancy dated April 15, 2015?

### Background and Evidence

The rental unit is an apartment in the landlord's supportive housing facility. The tenancy started in October, 2013. The landlord has given the tenant several Notices to End Tenancy for cause. The Notices have been given because, according to the landlord, the tenant has been hoarding in the rental unit items that he has collected from dumpsters around the city. The landlord's pest control experts have determined that there is a building wide cockroach infestation that has emanated and spread from the rental unit. The landlord has given the tenant several Notices to End Tenancy for cause. On January 8, 2015 the landlord wrote to the tenant and told him that the landlord unsanitary condition of the rental unit constituted a health hazard to the tenant and other occupants of the rental property. The landlord said that the tenant had 10 days to significantly improve the condition of his suite and if the if the situation was not resolved within that time the landlord would have to take further measures, including proceedings to evict him.

The landlord's representative said that an inspection of the rental unit was conducted on January 21<sup>st</sup>. There was some evidence of cleaning but the unit was still clogged with piles of possessions and with garbage throughout the unit. There was still a cockroach problem. The landlord served the tenant with a one month Notice to End Tenancy on January 28, 2015. The Notice required the tenant to move out by February 28<sup>th</sup>. The landlord gave the tenant an accompanying letter. The letter said in part that:

If the current condition of your suite is addressed and the expectations of the January 10<sup>th</sup> letter are met by February 15, 2015, we may consider rescinding the eviction notice. Staff will continue to support you, and the team leads (names) are also available to you for questions or concerns.

The landlord rescinded the Notice to End Tenancy given on January 28<sup>th</sup>, but the landlord's representatives testified that since then the unit has not been cleaned sufficiently to allow the unit to be treated for insects. The landlord served the tenant with another Notice to End Tenancy on April 15, 2015. The Notice required the tenant to move out by May 31, 2015. The landlord's representatives said that since the Notice was given the tenant has continued to bring home garbage and items retrieved from dumpsters. He has been verbally abusive to staff and threatened physical harm to staff who have spoken to him about the items he has brought to the rental unit.

The landlord submitted a report from a pest control company to the landlord dated May 30, 2015. The author referred to a recent inspection of the rental unit; he said:

Upon inspection, the following was found in this unit –

- German Cockroaches in all stages,
- Silverfish in all stages.

Monitors revealed over 300 roaches per monitor (40 monitors) and over 40 silverfish per monitor.

The unit was almost impossible to navigate as there were clothes, garbage, old food and many other obstacles. This unit will need to be cleaned BEFORE a treatment can be successful. All clothes should be laundered and bagged or hung up.

The tenant submitted some photographs of the rental unit that he said showed the current condition of the unit. The photos were undated. He said that it is much cleaner than it was. The tenant did not file an application to dispute the one month Notice to End Tenancy. He said that he did not apply because the landlord led him to believe that the landlord's employees were working with him and the Notice would be cancelled if he cleaned up the unit.

The landlord's representatives testified that they have attempted for months to work with the tenant to assist him to clean up the rental unit so it can be treated. The landlord's representative said that despite many warnings going back for months, the tenant has not cleaned the unit to the point that it can be treated for pests. The landlord said that the pictures submitted by the tenant do not accurately depict the current condition of the rental unit. The tenant's unit is the incubator and source of a building wide infestation of cockroaches and the

numbers in the rental unit are, in the words of the pest control consultant: "unlimited/uncountable".

The landlord's representative said that the landlord now has no alternative but to seek an order for possession and evict the tenant in order to preserve the tenancies of the other occupants of the rental property.

### Analysis

The landlord has given and rescinded a previous notice with respect to this tenancy. The tenant acknowledged that he was served with the Notice to End Tenancy dated April 15, 2015. He has not applied to dispute the Notice to End Tenancy. He claimed that the landlord led him to believe that it would be withdrawn if he succeeded in cleaning his unit. I find that the tenant has been notified in writing and by Notice on repeated occasions that his tenancy was at risk if he did not meet the landlord's requirements to clean up the rental unit. I accept the landlord's evidence that he has failed to do so and that currently the insect infestation in the rental unit cannot be treated because the unit is so cluttered. The Notice to End Tenancy that the tenant was given on April 15, 2015 stated that the tenant had 10 days to file an application to dispute the Notice to End Tenancy and if he did not do so, he would be conclusively presumed to have accepted that the tenancy would end of the effective date of the Notice. I find that the fact that the landlord chose to withdraw an earlier Notice and continue to attempt to work with the tenant does not compel it to continue to show forbearance when it determines that the tenant's problem is intractable and the entire rental property is in jeopardy. I find that the landlord is entitled to an order for possession pursuant to the one month Notice to End Tenancy for cause.

### Conclusion

I grant the landlord an order for possession effective to days after service on the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

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: June 29, 2015

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Residential Tenancy Branch

