



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC

### Introduction:

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the one month Notice to End Tenancy dated October 27 2017 and setting the end of tenancy for November 30, 2017.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was served on the Tenant by posting on October 27, 2017. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord carries on business on November 10, 2017. With respect to each of the applicant's claims I find as follows:

### Issues to be Decided:

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated October 27, 2017?

### Background and Evidence:

The tenancy began on February 1, 2012. The present rent is \$631 per month payable in advance on the first day of each month. The Tenant paid a security deposit of \$280 on February 3, 2012.

There is a dispute between the parties as to the written tenancy agreement. The tenant produced a partial copy of a tenancy agreement (several pages were missing). The tenant's tenancy agreement indicates there was 17 pages of the Addendum which 17

additional terms. The tenant testified he recalls going over the tenancy agreement with the representative of the landlord and crossing out a number of clauses. The landlord did not provide him with a complete copy of the tenancy agreement.

The landlord produced the copy of a complete tenancy agreement including an Addendum of 27 terms. Paragraph 24 provided

“These rooms are rented to single occupants only and roommates, including long-term guests) are not permitted. Residents must notify the landlord in writing if their guest plans to stay longer than a few days.”

In July 2017 that tenant permitted his girlfriend to move into the rental unit. The landlord advised the Tenant prior to the move and after that she was not permitted. She continues to live in the rental unit with the Tenant. He testified she is her common law spouse..

On October 10, 2017 the landlord gave the Tenant a breach letter that he would have to remove his girlfriend immediately failing which the landlord would serve a one month Notice to End Tenancy for cause.

The landlord produced a copy of City of Vancouver Single Room Accommodation Bylaw NO. 8733. However the landlord was not able to show where the bylaw limits the number of people that can live in a rental unit.

Grounds for Termination:

The Notice to End Tenancy identifies the following grounds:

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

Analysis:

After carefully considering all of the evidence and the submissions from both parties I determined the landlord failed to establish sufficient cause to end the tenancy for the following reasons:

- I determined that the landlord failed to prove that the 27 term Addendum the landlord has produced was the Addendum that was part of the tenancy agreement that was signed when the tenant took possession for the following reasons:

- The tenant testified he never signed the 27 term Addendum that was produced by the landlord. The first time he saw it was when he received it as part of the evidence presented by the landlord for this hearing.
- The representative of the landlord who went over the tenancy agreement with the Tenant in 2012 is no longer with the company and he did not provide evidence for the hearing.
- The two representatives of the landlord gained employment with the landlord in the summer of 2015 and they do not have first hand knowledge of what was signed in 2012.
- The representatives of the landlord referred to the notation at the bottom of the two pages indicating it was produced in 2010. I accept the submission of the advocate for the tenant was that an equally plausible explanation was that the landlord changed the Addendum over time but failed to change the date on the bottom of the Addendum.
- The Addendum produced by the landlord has not been signed by either the Tenant or the representative of the landlord.
- The tenant testified there have been changes which indicate the landlord's Addendum is not accurate. For example the Addendum indicates it is "No Smoking." He is a smoker and would have never entered into a tenancy that did not permit him to smoke. Further, it refers to a deposit for electronic key fobs and the charges to replace. The tenant testified the landlord did not have electronic fobs when he moved in. The landlord disputes this evidence but did not produce evidence support the landlord's evidence.
- I do not accept the submission of the landlord that tenant's document is unreasonable because it indicates the Addendum is 17 pages. The landlord's representative would have filled this in at the time. I determined the reference to 17 pages is likely an error made by the landlord's representative in preparing the tenancy agreement.
- In summary I determined the landlord failed to prove the 27 term Addendum was part of the tenancy agreement signed by the tenant in 2012.
- The tenancy agreement indicates the Tenant is the sole Tenant for the rental unit. However, in my view this is not determinative as there are many tenancy agreements show one tenant but the tenant has roommates.
- The landlord failed to provide sufficient evidence to prove that the presence of more than one person in the rental unit was contrary to the City of Vancouver Single Room Accommodation Bylaw. It does not appear that this bylaw restricts the number of residents per unit.

- The landlord does not allege in the Notice to End Tenancy that “the number of people living in the rental unit is unreasonable.” There is insufficient evidence to deal with this issue.
- Further, even if I determined that the 27 term Addendum was part of the 2012 tenancy agreement, the landlord failed to provide sufficient evidence to prove that the requirement that it be rented to a single occupant is a material term. The Addendum contains a number of terms many of which could be seen as material. This provisions does not state it is a material term and a breach of which would give the landlord the right to end the tenancy.
- Finally, the breach letter states the girlfriend has to leave immediately. The Residential Tenancy Act provides that the landlord must give the tenant a reasonable time to correct the breach. In my view the requirement that she leave immediately is not a reasonable time.

Determination and Orders:

As a result I determined the landlord failed to establish sufficient cause to end the tenancy. I ordered that the Notice to End Tenancy dated October 17, 2017 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

**This decision is final and binding on the parties.**

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 26, 2018

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Residential Tenancy Branch