



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC OPC

### **Introduction**

Both parties attended the hearing and gave sworn or affirmed testimony. The One Month Notice to End Tenancy is dated March 20, 2018 to be effective April 30, 2018 and the tenant confirmed it was served personally. The tenant /applicant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed they received it. I find the documents were legally served for the purposes of this hearing. The tenant applies 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;

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

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced about 10 years ago in an upper suite, then the tenant moved to the lower suite. The present owner/landlord took over almost 3 years ago. Rent is \$900 a month and the tenant said he paid a security deposit of \$600 while living in the upper suite and he presumes it was transferred to the current landlord. The landlord denies there is a security deposit in this amount. The landlord served a Notice to End Tenancy for the following reasons:

The tenant or a person permitted on the property by the tenant has

- a) significantly interfered with or unreasonably disturbed another occupant or the landlord;

- b) seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- c) put the landlord's property at significant risk

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The landlord said that since he has taken over, the upper tenants complain all the time about this tenant. He brings in people using drugs who leave needles around, his woman friend does laundry in the middle of the night and he has so much junk all over his unit that it is a fire hazard, especially with stuff sitting on top of electric heaters. He said there are bed bugs emanating from the tenant's suite. He said the tenant changed one lock to the laundry room door and was denying access to it; he never gave the landlord a key to it. Since the landlord took over, he said two families have moved out and another has just given her Notice because of this tenant and his friends. He had arranged for another tenant to call into the conference but she did not call in to give evidence although the conference continued for over 40 minutes and he was given opportunity to contact her during the conference.

The tenant said the door to the laundry room is his front door and the only locking door to his suite. He said he never changed any locks. He said he has accumulated some stuff over 10 years but he moved any stuff that was blocking the door. He said his rent has been increased twice, the doors have holes, there is mould and the landlord has accused his girlfriend/wife of being a drug addict which is very disrespectful. He said he gets along well with other tenants in the building. His witness said he is a visiting friend who has known the tenant for a long time. He said he knew the upper tenants and they moved out because of bugs but this tenant did not cause the bugs. He said they maintain a drug free house, the tenant talks loudly but he gets along well with the other tenants and their children come down and visit frequently.

The landlord said he believes the witness is another of the unauthorized persons living with the tenant. He said he had issued many Notices to End Tenancy to the tenant before but he had problems putting them into the new computer system as evidence. He mentioned repeated late payment of rent and other things. I told him of the 10 Day Notice and the One Month Notice which can also be for repeated late payment of rent but emphasized evidence must be provided.

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 discussed with the parties 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 landlord did not satisfy the onus of proof. I find the evidence of the tenant credible and I prefer it to the evidence of the landlord in respect to the causes cited, namely, that he or a person permitted on the property by him 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; and put the landlord's property at significant risk. I find the tenant's credibility supported by the evidence of his friend who gave details of interaction with other tenants. I find it unlikely that if the tenant is causing problems to the upper tenant, she would not join the conference to confirm the landlord's testimony of the problems the tenant is causing her and her children.

I set aside and cancel the Notice to End Tenancy dated March 20, 2018 to be effective April 30, 2018. The tenancy is continued.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is successful; no filing fee was required. The Notice to End Tenancy dated March 20, 2018 is hereby set aside and cancelled. The tenancy is continued until legally ended..

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: April 24, 2018

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Residential Tenancy Branch