



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, ERP, OLC, FF

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy, for the Landlord to complete emergency repairs, for the Landlord to comply with the Act, regulations and the tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on April 4, 2018. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to an Order to cancel the Notice to End Tenancy?
2. Are there emergency repairs to be completed?
3. Has the Landlord complied with the Act, regulations and tenancy agreement?

### Background and Evidence

This tenancy started on January 1, 2018 as a month to month tenancy. Rent is \$850.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$425.00 on January 1, 2018. No move in condition inspection report was completed at the start of the tenancy.

The Landlord said she served the Tenant with a 1 Month Notice to End Tenancy for Cause dated March 26, 2018 by posting it on the door of the Tenant's rental unit on March 26, 2018. The Effective Vacancy Date on the Notice is April 30, 2018. The Tenant is living in the unit and the Landlord said she wants to end the tenancy.

The Landlord said the reason on the 1 Month Notice to End Tenancy is that the Tenant has significantly interfering with or unreasonably disturbing another tenant or the landlord.

The Landlord said there were two incidents that lead to the issuing of the 1 Month Notice to End Tenancy and they are as follows:

- 1). The Tenant has played loud music in the rental unit which has disturbed the Landlord and other tenants. The Landlord said the Tenant's evidence shows a text message on February 13, 2018 requesting the Tenant to turn the music down. The Landlord continued to say there was one other incident of the Tenant playing loud music during a morning but she could not remember the details.
- 2). The Landlord continued to say that after the Notice to End Tenancy was issue the Tenant sent a text message to the Landlord that was racist in her mind. The Landlord said the Tenant did not make racist comments directly to her or about her or her partner, but the Landlord was uncomfortable with the text message that the Tenant sent her.

The Tenant responded to the Landlord's claims regarding the One Month Notice to End Tenancy for Cause as follows:

- 1). The Tenant said he likes to play his music and there was a discussion with the Landlord at the start of the tenancy that playing music was OK if it was not too early and not after 10:00 p.m. The Tenant said there were only the two incidents of loud music communicated to him and he turned the music down after he was told to. The Tenant said he has not played his music loudly since the Landlord requested him to turn it down. The Tenant said there have not been any complaints since the two incidents. The Landlord agreed that the Tenant is not playing his music since he was told to keep it down.
- 2). The Tenant continued to say he did not make racist comments to the Landlord or about the Landlord, but he did text the Landlord about his experience with a taxi driver and a person dressed in a Mexican outfit with a horse who came to his unit. The Tenant said he thought his relationship with the Landlord was more open than just a tenancy agreement. The Tenant said he did not mean to sound racist and he will not talk openly to the Landlord again. The Tenant said he misunderstood the relationship with the Landlord.

With regard to the Tenant's other claims he said he understands that because there was no written documents or a condition inspection report at the start of the tenancy he took the unit as is. Further the Tenant said the smoke detector has been replaced and

the other items that are in need of repair are not emergency issues. The Tenant said he is willing to work with the Landlord for those repairs.

The Tenant said in closing that he wants to continue the tenancy and he has turned his music down and the will not talk openly with the Landlord about non tenancy issues.

The Landlord said in closing that the Tenant did play his music loud and his text messages are racist in her mind and that makes the Landlord feel uncomfortable.

### Analysis

It is apparent from the testimony and evidence that there are issues between the Tenant and the Landlord. Tenancies are a contractual agreement, but they also require the parties to make their best efforts to get along. This means there is a relationship and there needs to be give and take between the parties to make things work. Consequently the parties will abide by the following decision. In Section 47 (d) of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because the Landlord or another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with.

In this case both parties gave testimony that the loud music has stopped. Further both parties agreed that the text message that the Tenant sent to the Landlord was not directed at the Landlord or her partner, but may have been an inappropriate message from the Tenant to the Landlord. This message was not a direct threat against the Landlord. Consequently, I find that the reason given for ending the tenancy has not reached the level of **unreasonableness, significance or seriousness** required by section 47(d) of the Residential Tenancy Act. I find in favour of the Tenant and Order the 1 Month Notice to End Tenancy for Cause date March 26, 2018 is cancelled and the tenancy is ordered to continue as set out in the Tenancy Agreement.

Further as the Tenant is not pursuing the emergency repairs and as there was no documentation for general repairs at the start of the tenancy, I dismiss the Tenant's claim for emergency repairs to the rental unit.

With regard to the Tenant's claim for the Landlord to comply with the Act, regulations and tenancy agreement I find the Landlord has complied.

As the Tenant has been successful in this matter I order the Tenant to recover the \$100.00 filing fee for this proceeding by deducting it from the next rent payment. The rent payment will be reduced from \$850.00 to \$750.00.

Conclusion

I order the 1 Month Notice to End Tenancy for Cause dated March 26, 2018 is cancelled and the tenancy is ordered to continue as set out in the Tenancy Agreement.

The next rent payment is adjusted to \$750.00 so that the Tenant can recover the filing fee of \$100.00 for this proceeding from the Landlord.

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 25, 2018

---

Residential Tenancy Branch