



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Success Realty & Insurance Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, OLC, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47;
2. An Order for the Landlord’s compliance - Section 62; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid for its stated reason?

Is the Landlord out of compliance with the tenancy agreement or the Act?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy, under written agreement, started on May1, 2014. Rent of \$1,436.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$647.50 as a security deposit. The Landlord served the Tenant with a one month notice to end tenancy for cause (“the Notice”) by

posting the Notice on the door of the unit. The Notice is dated June 18, 2018 and states the following reason:

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

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- put the landlord's property at significant risk.

The Landlord states that on May 16, 2018 the Landlord received a complaint from a tenant in the building next to the building where the Tenant resides. The Landlord states that this tenant sent an email that loud music was coming from the Tenant's unit at 11:30 p.m. on Tuesday May 15, 2018 and that the Tenant turned the music louder when asked to turn it down. The Landlord states that the police were called. The Landlord states that on June 20, 2018 the same tenant made another complaint about noise. The Landlord confirms that no complaints have been received since this last complaint. The Landlord confirms that it has no other evidence to provide.

The Tenant's Agent (the "Tenant") states that it may be that the complaining tenant was wrong about the unit the music was coming from. The Tenant states that on May 15, 2018 only the Tenant and a guest were at the unit, sitting on the deck, and the only music being played was from the Tenant's lap top sitting inside the unit. The Tenant states that there have never been any noise complaints in the four years of the tenancy. The Tenant states that the police were called and appeared annoyed about the complaint as there was no party or noise at the unit. The Tenant states that the police indicated that they would not even write up a report of the complaint. The Tenant states that it is unaware of what might have caused the complaint on June 20, 2018 as the Tenant was home alone at the time. The Tenant states that the Tenant has no television or stereo system.

The Tenant states that the Landlord has informed the Tenant that it would only consent to a roommate if insurance were purchased from the Landlord. The Tenant states that

the Landlord has not acted on anything as the Tenant has not obtained a new roommate. It was noted that in addition to the Tenant another person is on the tenancy agreement. The Landlord states that the other named tenant moved out of the unit and that this may be the reason for the sudden occurrence of noise from the unit. The Tenant states that a new tenancy agreement was entered into when the other tenant moved out. The Landlord states that the only change was to add the name of another person to the tenancy agreement. The Tenant seeks an order that the Landlord cannot refuse a roommate or cannot require a roommate to pay insurance to the Landlord. The Tenant requests an order that the Landlord comply.

### Analysis

Section 47(1)(d) provides that a landlord may end a tenancy by giving notice to end the tenancy if, inter alia, the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property or put the landlord's property at significant risk. Where a notice to end tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Ending a tenancy is a serious matter and not any interference or disturbance will qualify as grounds to end a tenancy. As there is only one instance of a noise complaint prior to the issuance of the Notice, considering the Tenant's evidence that the police found no disturbance and as I do not consider the second complaint to be sufficient to show an ongoing disturbance since the issuance of the Notice, I find that the Landlord has not provided sufficient evidence of an unreasonable disturbance or a significant interference. The Landlord provided no evidence in relation to the noise or anything else putting the Landlord's property at significant risk. For these reasons I find on a balance of probabilities that the Landlord has not substantiated that the tenancy should end for the reasons stated on the Notice. The Tenant is therefore entitled to a cancellation of the Notice. The tenancy continues.

There is no evidence that the tenancy agreement restricts the Landlord from offering or requiring insurance from a tenant. There is no evidence that the tenancy agreement requires the Tenant to agree to purchase insurance. There is nothing in the Act in relation to insurance. There is no evidence that the Landlord has breached or is out of compliance with the tenancy agreement or Act. The Landlord's evidence that another person was added to the tenancy agreement after the other named tenant moved out of the unit appear to indicate that the Landlord has not acted to restrict another occupant on the basis of a failure to agree to purchase insurance. As a result I find that the Tenant has not substantiated an entitlement to an order that the Landlord comply with either the tenancy agreement or the Act and I dismiss this claim.

As the Tenant's claim to cancel the Notice has been successful I find that the Tenant is entitled to recovery of the **\$100.00** filing fee and the Tenant may deduct this amount from future rent payable.

### Conclusion

The Notice is not valid and is cancelled.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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: August 20, 2018

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Residential Tenancy Branch