



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Chma  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause, pursuant to section 47 of the *Residential Tenancy Act*. Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant attended along with her agent. The corporate landlord was represented by their agents.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

### **Issue to be Decided**

Does the landlord have grounds to end this tenancy?

### **Background and Evidence**

The tenancy began on October 01, 2013. The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$543.00. The rental unit is a town house located in a complex that has 43 units.

The landlord stated that the tenant's brother visits the tenant on a regular basis and on occasion he brings his pet dogs. The complex has a no pet policy and other residents of the complex have complained about this issue.

The landlord's main issue with the tenant was that her brother has stored stolen property in the underground parking and the landlord has a video to support his testimony. The tenant denied the allegations.

The landlord did not file a copy of the video for privacy reasons. The tenant was not served with a copy of the video. The landlord stated that he needed to obtain permission to use the video. The tenant agreed that on September 10, 2020, the police arrested her brother inside the rental unit for breach of probation.

On September 11, 2020 the landlord served the tenant with a one-month notice to end tenancy for cause. The tenant disputed the notice in a timely manner.

The reasons for the notice are:

Tenant or a person permitted on the property by the tenant 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
- put the landlord's property at significant risk
- jeopardized a lawful right or interest of another occupant or the landlord

### **Analysis**

In order to support the notice to end tenancy, the landlord must prove at least one of the reasons for the notice to end tenancy.

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The landlord's allegations and reasons for the notice to end tenancy were denied by the tenant. The tenant stated that her brother did not store stolen property in the underground parking. The landlord agreed that he did not file sufficient evidence to support the allegations. I accept the landlord's position that he needed to have approval to use the videos. Accordingly, I set aside the notice to end tenancy. The landlord has leave to reapply and provide evidence to support his allegations.

The tenant would be wise to refrain from giving the landlord and other occupants of the residential complex, reason to complain or fear for their safety. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

**Conclusion**

The notice to end tenancy is set aside and the tenancy will continue.

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: November 05, 2020

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Residential Tenancy Branch