



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for cause; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The landlord and the tenant attended the conference call hearing and each gave affirmed testimony. The landlord was also assisted by his son who acted as an interpreter and was affirmed to well and truly interpret what was said from the English language to the Punjabi language and from the Punjabi language to the English language to the best of his ability. The landlord also provided some testimony in English.

The parties also provided evidentiary material to the Residential Tenancy Branch and to each other. All evidence and testimony provided has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Should the notice to end tenancy be cancelled?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for the cost of television cable?

### Background and Evidence

The landlord testified that the rental unit is a basement suite within a house, and the landlord resides in the upper unit. The landlord purchased the home in August, 2013

and the tenant was already residing there. The landlord was not provided with a written tenancy agreement from the previous owner, but rent in the amount of \$650.00 is payable in advance on the 1<sup>st</sup> day of each month and there are no rental arrears. The landlord received a security deposit on behalf of the tenant when the home was purchased in the amount of \$200.00 which is still held in trust by the landlord.

The landlord also testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause on March 3, 2014. The landlord's wife gave it to the tenant's daughter, and the tenant was in the car outside at the time. A copy of the notice has been provided by the tenant and the landlord agrees that it is a copy of the one that was served. The notice is dated March 1, 2014 and contains an expected date of vacancy of April 30, 2014. The title of the form has been changed in handwriting to read "2 Month Notice to End Tenancy for Cause." The landlord testified that he changed it because considering how difficult it is to find alternate accommodation, he didn't feel that 1 month was enough notice for the tenant.

The reason for ending the tenancy states: "Tenant or a person permitted on the property by the tenant has interfered with or unreasonably disturbed another occupant or the landlord." The landlord testified that in November, 2013 the tenant yelled at the landlord's wife and has been disrespectful when the parties talk on the phone. The landlord's wife is intimidated by the tenant.

The tenant denied that the tenant has spoken disrespectfully to the landlord. On the date in November, 2013 there was no heat in the rental unit. The tenant asked the landlord to fix it, and called the Residential Tenancy Branch who advised that the tenant could purchase a heater and deduct the amount from the rent, so she did.

The tenant also denies that the landlord's wife was spoken to rudely on the phone; the landlord's wife had called the tenant and she was getting into the shower. The landlord's wife called again when the tenant was in the shower and the tenant's daughter answered the phone. The tenant denies that any disturbance has been caused.

With respect to the application for a monetary order, the tenant testified that in the verbal tenancy agreement that she had with the previous owner, cable was included in the rent. No evidence of that has been provided, nor have any copies of cable bills.

### Analysis

In the circumstances, I cannot find that the tenant has caused an unreasonable disturbance to the landlord or any other occupants in the building. Where a tenant

disputes a notice to end tenancy, the onus is on the landlord to prove the validity of the notice to end tenancy, including the reason for issuing it. The landlord has a binding contract with the tenant whether or not it is in writing, and ending that contract must be by consent or for sufficient reason. Therefore, I cancel the notice to end tenancy.

With respect to the tenant's application for a monetary order, I have no evidence before me to substantiate that cable was included in the rent or how much it costs the tenant. A party who makes such a claim must be able to prove that it is included in the rent and that the landlord agreed to it and is now refusing it, how much the tenant has paid for cable and when, and whether or not the tenant asked the landlord for the payment or to include it in the rent. I find that the tenant has failed to establish any of those elements and the tenant's application is hereby dismissed without leave to reapply.

Since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the \$50.00 filing fee for the cost of the application. I order that the tenant be permitted to reduce rent by \$50.00 for the month of April, 2014 as recovery of that filing fee.

### Conclusion

For the reasons set out above, the 1 Month Notice to End Tenancy for Cause dated March 1, 2014 is hereby cancelled, and the tenancy continues.

I hereby order the tenant to be permitted to reduce rent by \$50.00 for the month of April, 2014 as recovery of the filing fee.

This order is final and binding on the parties and may be enforced.

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: March 27, 2014

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Residential Tenancy Branch

