



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EY PROPERTIES LTD.

## **DECISION**

Dispute Codes      CNC

### Introduction

The tenants apply to cancel a one month Notice to End Tenancy dated and served September 26, 2014. The Notice alleges that:

1. The tenants have allowed an unreasonable number of occupants in the suite.
2. The tenants or a person permitted on the property by them have;
  - a) Significantly interfered with or unreasonably disturbed another occupant or the landlord,
  - b) Seriously jeopardized the health or safety of another occupant or the landlord,
  - c) Put the landlord's property at significant risk,
3. The tenants have engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

### Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that the tenants have given cause under any of the foregoing grounds?

### Background and Evidence

The rental unit is a one bedroom apartment in a 136 unit conventional apartment building. The tenancy started in February 2006. The current monthly rent is \$858.00. The tenant Mr. M. moved out last week. The remaining tenant Ms. H. intends to continue to reside at the rental unit.

The landlord's representatives presented a list of warning notices to the tenants sent over the past sixteen months regarding the frequency and conduct of visitors to the suite and the concern of other tenants in the building, including an occasion where the tenant Mr. M. was found banging on his door because he could not get in.

As a result of complaints about traffic to the suite, the landlord's representative Mr. T. reviewed the video monitor to the front door for the evening of September 24, 2014 and the early morning hours of September 25. She recorded the entry and exit of persons know to frequent the tenants' apartment. She recorded twenty one entries between the hours of 6:29 p.m. and 4:09 a.m. The visitors appear to stay for only a few minutes. She recorded the tenant Mr. M. entering at 9:22 p.m., leaving at 9:25 p.m., leaving again at 1:14 a.m. and entering again at 4:09 a.m..

The tenant Mr. M. denied that all the persons were visiting his apartment.

The landlord's representatives also submitted unsigned statements from anonymous persons who have claimed to have been disturbed by these comings and goings. I declined to accept this evidence. Anonymous statements, even if admitted in evidence, can have little if any evidentiary value. The landlord's representatives proposed to submit evidence of events occurring after the Notice was given. Again, such evidence is of little if any evidentiary value. The validity of the Notice can only be determined based on conduct or events in existence at the time the Notice was given.

The landlord's representatives presented evidence to indicate that a Mr. D.C. once said he was staying in the rental unit. The tenant Mr. M. denied it.

The landlord's representative Ms. O. testified that the tenants had changed to deadbolt lock on the door without the landlord's knowledge. The lock change was only discovered after the Notice had been given but the change occurred before the Notice. I considered the evidence to be relevant and accepted it.

The tenant Mr. M. testified that the lock had failed some time ago. He says he gave the landlord a "notice to repair" but nothing was done after two days so on the third day he changed the deadbolt lock himself. He did not provide the landlord with a key.

In response the landlord's representatives say that if there had been a request for lock repair it would have come to the attention of each of them and that no such request was ever made by Mr. M.

### Analysis

There is insufficient evidence to conclude that persons other than the tenants are occupying the rental unit. This ground for the Notice fails.

Without some direct, cogent evidence of others being significantly interfered with or unreasonably disturbed, this ground for the Notice fails.

There is no evidence that the tenants or their guests are seriously jeopardizing the health or safety of anyone. This ground for the Notice fails.

There is no cogent evidence of illegal activity. This ground fails.

The tenants have unilaterally changed the lock to the rental unit. I accept the evidence of the landlord's representatives that it was done without the landlord's knowledge. Had there been a written request, as the tenant Mr. M. says, I consider it unlikely that the landlord would not have a record of it.

A tenant unilaterally changing the lock to the door of a rental unit without notice or the delivery of a key to the landlord puts the landlord's property at significant risk. Should there be an emergency in the suite or elsewhere in the building that threatens the tenants or their rental unit, the landlord has no immediate access. This creates a significant risk to all the building's occupants and to the landlord's property.

For this reason I find that there were good grounds for the Notice. I uphold it and deny the tenants' application to cancel it.

### Conclusion

The tenants' application is denied. The landlord's representatives requested an order of possession and they are entitled to do under s. 55 of the *Residential Tenancy Act*. I grant the landlord and immediate order of possession.

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 18, 2014

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Residential Tenancy Branch

