



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC

### **Introduction:**

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel the one month Notice to End Tenancy dated February 15, 2019.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

### **Preliminary Matter**

Both sides stated the other side failed to provide evidence in a timely manner as required by the Rules. A search of the registry indicates the tenant filed his material one day later than he was required to by the Rules and the landlord filed her materials 2 days later than was required. The landlord testified that the documents she intended to rely on were provided to the tenant in a brown envelope that was posted 7 days prior to the hearing. The tenant testified he did not receive it. In the circumstances I determined it was appropriate to consider all relevant evidence in this hearing including the documents.

I find that the one month Notice to End Tenancy was served on the Tenant by placing it in the mail slot on February 15, 2019. The tenant testified he received it on February 20, 2019. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on an agent for the landlord on March 1, 2019. With respect to each of the applicant's claims I find as follows:

### **Issues to be Decided:**

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated February 15, 2019?

Background and Evidence:

The tenancy began on February 17, 2018. The tenancy agreement provided that the tenant(s) would pay rent of \$350 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$500 at the start of the tenancy.

Grounds for Termination:

The one month Notice to End Tenancy submitted by the Tenant is illegible. The landlord did not submit a copy of the Notice. However, the parties advised me that the grounds set out in the Notice to End Tenancy are as follows:

- Tenant has allowed an unreasonable number of occupants in the unit/site
- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord

Analysis:

The landlord gave the following evidence:

- She received a report from another staff member that in early February the tenant was overheard engaged in an argument with a young female about chores and rent. The staff member concluded that the young female was residing with the tenant.
- On February 13, 2019 the landlord received a report that stated "...my daughters friend lives there with a 43 year old man who is supplying her with heroin and having sex with her as well as some very hard core sexual acts on others....
- The young girl referred to is a teenager.
- The rental unit is a single occupancy unit only.
- There is a warning letter from the previous residential services manager to the tenant dated May 2, 2018 stating that it has come to her attention that a woman is living with him and warning him that this is single occupancy building and that any further breaches would result in eviction.
- Other documents were submitted. However, I determined little weight can be given as they refer to conduct after the date of the Notice to End Tenancy or they

were not sufficiently confirmed by the person sending the e-mail or writing the memo.

The tenant gave the following testimony:

- He has mental health issues and is on probation. He has a female support worker who assists him and visits every other day. He talked to the previous residential services manager after receiving the May 2, 2018 letter and she was satisfied with his explanation and that no one was living with him.
- He testified that a young female stayed with him for 3 days in February because she was forced out of her home after arguing and fighting with her parents. The argument referred to by the witness was his effort to get her to return to her parents.
- She is not living with him and has returned to her home.
- He denies there is excessive number of people visiting him.
- Tenant Witness #1 testified she stayed with the landlord for a couple days in February after being kicked out of her home. She had no place to go at the time. She has now returned to her home. She denied the allegation the tenant gave her drugs or that there were engaged in sex acts.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has failed provide sufficient evidence to establish cause to end the tenancy for the following reasons:

- The landlord has the burden of proof to establish sufficient cause based on a balance of probabilities.
- The representative of the landlord had little first hand evidence and relied on emails and memos on file. While these e-mails are admissible the little weight can be given were there is credible viva voce evidence from the other side that disputes it.
- I determined the explanation of the tenant about his response to the May 2, 2019 letter from the landlord was credible and the letter cannot be used as evidence that a female was living there.
- I accept the testimony of the tenant and his witness that she stayed there for 3 days only because she had no other place to go and that she is not residing there.

- I determined the landlord failed to prove that there is an unreasonable number of occupants in the rental unit.
- I determined the landlord failed to present sufficient evidence to establish that the tenant or person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord. The landlord did not call as witnesses any other occupants of the rental property. Other staff member who allegedly heard the dispute did not testify at the hearing.

Conclusion:

In summary I determined the landlord failed to present sufficient evidence to establish sufficient cause to end the tenancy. As a result I ordered that the one month Notice to End Tenancy dated February 15, 2019 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

**This decision is final and binding on the parties.**

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 17, 2019

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Residential Tenancy Branch