

## DECISION

Dispute Codes      MT, CNC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for more time to make an application to cancel a notice and to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant and two agents for the landlord.

The landlord noted that she had submitted evidence but had submitted it under an incorrect file number. The tenant confirmed that he had received the landlord's evidence and I took testimony at the hearing.

I informed the parties that I would look for the evidence at the end of the hearing and should it not be found an Information Officer would contact the landlord for copies. Upon closing the hearing I found the evidence in a different file.

### Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to more time to make an Application for Dispute Resolution to cancel a Notice to End Tenancy and to cancel a 1 Month Notice to End Tenancy for Cause pursuant to sections 47 and 66 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on April 1, 1989 as a month to month tenancy for a current monthly rent of \$818.00 due on the 1<sup>st</sup> of the month with a security deposit of \$212.50 paid on April 1, 1989.

The tenant submitted a copy of a 1 Month Notice to End Tenancy for Cause dated May 5, 2010 with an effective date of June 30, 2010 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant has also submitted a letter dated June 10, 2010 from a local health authority doctor stating the tenant's wife had been hospitalized on May 15, 2010 resulting from an acute psychiatric episode. The tenant further testified that the episode had been building for some time and that he had been dealing with those issues and was unable to submit his Application for Dispute Resolution within the 10 days allowed to contest an 1 Month Notice to End Tenancy for Cause.

The tenant stated that his wife has now stabilized and has been released from hospital and that since that time there have been outbursts or disturbances caused by his wife. The tenant confirmed that his wife has been compliant and cooperative with her treatment to date.

The landlord notes that the disturbances have been going on for some time and as a result of several recent complaints, including those written complaints submitted into evidence, the landlord felt she had no alternative to issue the notice to end the tenancy.

The building manager indicated that he had spoken to the male tenant and advised that the disturbances must end or a notice to end tenancy may be issued. The landlord testified that while she understands the tenants situation she is responsible to the other residents in the building as well.

The landlord noted some of the other older tenants have identified that they are frightened by the outbursts of the female tenant and the landlord is concerned of what might occur if the female tenant decides in the future to be non-compliant with her treatment and goes off of her medication.

### Analysis

Section 66 of the *Act* allows me to extend the time limit for submitting an Application for Dispute Resolution under exceptional circumstances. Based on the documentary and testimonial evidence before, I accept both tenants were dealing with extraordinary issues that involved the hospitalization of one of them and I therefore grant an extension to the deadline to submit his application to May 25, 2010.

Section 47 of the *Act* states a landlord may end a tenancy for cause if the tenant interferes with or unreasonably disturbs other occupants or the landlord. I find the notice issued is compliant with the requirements of Section 52 of the *Act*, in terms of form and content.

Based on the testimony provided by the male tenant I understand the struggles that he and his wife are dealing with at this time, however, I find the landlord has provided sufficient discussion with the tenants regarding the issues and sufficient justification to end the tenancy under Section 47.

While the effective date of the notice issued on May 5, 2010 was June 30, 2010 I note the landlord did not request an order of possession in the hearing and as such, I hope the parties will negotiate together a new effective date to end the tenancy that will recognize both the duration of this tenancy and the current difficulties the tenants are facing.

### Conclusion

As a result of my findings above, I dismiss the tenant's application, in its entirety, without leave to reapply.

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: July 09, 2010.

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Dispute Resolution Officer