

# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### **Dispute Codes:**

CLC

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The parties gave affirmed evidence and this Hearing proceeded on its merits.

### **Issue(s) to be Decided**

This is the Tenant’s application to cancel a One Month Notice to End Tenancy for Cause issued February 23, 2009.

(1) Should the Notice to End Tenancy be cancelled?

### **Background and Evidence**

The Tenant was assisted at the Hearing by an agent from the Downtown Eastside Residents’ Association.

### **Facts on which the parties agree:**

The Tenant personally served the Landlord with the Notice of Hearing documents on March 3, 2009, at the rental property.

### **Landlord’s testimony and evidence**

The Landlord gave the following reasons as cause to end the tenancy:

- The Tenant has significantly interfered with or unreasonably disturbed another occupant;
- The Tenant has seriously jeopardized the health or safety or lawful right of another occupant; and
- The Tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The Landlord testified that the Tenant makes xenophobic remarks to other tenants in the building, in particular Cantonese-speaking tenants. The Landlord provided a document into evidence, dated March 23, 2009. Included in the document is written testimony from 3 tenants in the building. One tenant told the Landlord that the Tenant sings to her "You pitiable old woman without a bit of shame still wearing pigtails".

Another tenant told the Landlord that she exercises everyday on the ground floor of the building. The Tenant sings when he sees her and she could not understand what he was singing, but recently he started to sing in English "You speak Cantonese that base Southern dialect, you should die". The tenant told the Landlord that she leaves the area now whenever she sees him coming so she doesn't have to meet him.

The Landlord testified that recently the Tenant was trying to enter the building, when another tenant blocked his way. The Tenant pushed the other tenant to the floor and then entered the building like nothing happened. The other tenant was not able to get up and lay on the floor waiting for someone to assist him. The Landlord provided a CD into evidence including a section of the surveillance camera video depicting the incident.

The Landlord asked for an Order of Possession.

#### Tenant's testimony and evidence

The Tenant admitted receiving copies of the Landlord's evidence, including the CD, but

the Tenant's agent had not had an opportunity to view the CD prior to the hearing. With the Landlord's consent, we stood down for 10 minutes to give the Tenant's agent an opportunity to view the CD.

After the 10 minute adjournment, the Tenant's agent stated that the Tenant was aware that he pushed the other tenant down, but that it was in reaction to him raising his stick at the Tenant.

The Tenant stated that he did not help the other tenant up because he thought the other tenant was not hurt.

#### Landlord's Witness's Evidence

The Landlord's Witness testified that he was entering the rental property recently. The Tenant was behind him, also wanting to enter the building. The Witness testified that the Tenant told him he was stupid, too stupid to know how to use his entrance key to get into the building. The Witness stated that he turned towards the Tenant and pointed his walking stick at the handicap entrance mechanism. The Witness stated that he only has use of one hand, because his left hand does not work, so he pointed his cane. The Witness stated that he then turned his back on the Tenant, who pushed him to the floor face-first. The Witness said he was stunned and had to wait for someone to help him up from the floor.

#### Tenant's testimony (continued)

The Tenant testified that he is a Chinese professor who worked in Canada for 8 years. The Tenant denied using swear words. The Tenant stated, "the native guy blocked me".

The Tenant stated that the Witness was ignorant and uncivilized and that he did not speak to him or to help him get up off the floor.

The Tenant's agent asked the Landlord if he would consider extending the date on an Order of Possession, should it be issued, to May 15, 2009, in order to allow the Tenant more time to secure alternate accommodation.

### **Analysis**

The Tenant acknowledged receiving the Landlord's evidence package. Included in the Landlord's evidence package is a letter from the Tenant to the building manager, dated April 3, 2009. In paragraph 3 of the letter, the Tenant states, in part, "As a Chinese, I consider dirty Honkongnese really representing a shame of Chinese. Please not try to be a judge of Chinese internal affair. Look at her poor English. It's really a shame! It is really as ugly as her! It really hurts me! They look like monkey. They behave as stupid as donkey. They are a piece of junk. That ugly Cantonese lady, with 2 metals in her hands, making circles on the 1<sup>st</sup> floor round by round, doing so-call exercise, I consider that is improper and offensive. They are not educated. They are even un-civilized."

I have carefully considered the oral testimony and written evidence, including the CD, of both parties and the Witness. I find that the Landlord has sufficient cause to evict the Tenant on the grounds stated in the Notice to End Tenancy. The Tenant's application to cancel the Notice to End Tenancy is dismissed.

The Landlord asked for an Order of Possession, and agreed to extend the date to May 15, 2009. I issue an Order of Possession in favour of the Landlord for May 15, 2009.

### **Conclusion**

The Tenant's application to cancel the One Month Notice to End Tenancy is dismissed.

Under Section 55 of the Act, the Landlord is entitled to an Order of Possession and I hereby issue the order effective May 15, 2009. This order must be served on the

Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

April 28, 2009

---

---