



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated July 29, 2010.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started approximately 3 years ago. On July 29, 2010, the Landlord served the Tenant in person with a One Month Notice to End Tenancy for Cause dated July 29, 2010. The grounds stated on the Notice were that,

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Parties agree that on July 29, 2010, the Tenant and his girlfriend had a heated argument. The Tenant's girlfriend left his second floor apartment and got into the elevator. The Tenant came out of the rental unit and threw a glass at the elevator door on the 1<sup>st</sup> floor. The glass shattered but no one was present in the lobby at the time. The Tenant said he regretted the incident but said it was a momentary loss of judgement and that it would never happen again. The Tenant also argued that no one was hurt and that he never would have intentionally done anything to harm someone else.

The Landlord initially claimed that when the Tenant threw the glass from the second floor, he had no way to know if someone was in the 1<sup>st</sup> floor lobby area or not. However, the Landlord's witness gave evidence that the Tenant would have been able to see the whole 1<sup>st</sup> floor lobby area from where he was standing. In any event, the Landlord argued that the Tenant could have seriously injured an employee or other occupant of the rental property by his actions and there was no guarantee that he would not "exercise poor judgement" again in the future. The Landlord said she has an obligation to her staff and other residents of the rental property to ensure their safety.

## Analysis

Unless there is a single incident that is so serious that it warrants ending the tenancy, natural justice requires that a person accused of violating the Act or tenancy agreement, be afforded some warning that their conduct is not acceptable, be made aware that failure to cease the conduct will place their tenancy in jeopardy and be given a reasonable opportunity to correct their behaviour.

In this case, the Tenant admitted that his conduct on July 29, 2010 was unacceptable but argued that it was an isolated incident and out of character for him. The Tenant also argued that no one was injured as a result of his actions and that he would never have intentionally done anything to harm someone else. The Landlord argued that the Tenant's conduct was of great concern because he acted without thought for the safety of other residents and could have seriously injured someone. The Landlord also argued that if the Tenant were to behave in a similar fashion again, she could be legally liable for any harm caused to an employee or resident.

In the circumstances, I find that the Tenant's act of throwing a glass at the main floor elevator door from the 2<sup>nd</sup> floor lobby was sufficiently serious on its own to warrant ending the tenancy. It is irrelevant that the Tenant did not intend to harm anyone as he claimed because the risk of harm to others was the same whether his act was intentional or simply careless. Although the Tenant claimed that he did not see anyone in the lobby at the time, there was a reasonable likelihood that flying glass could have harmed someone entering the lobby or exiting the elevator. Consequently, I find that the Landlord had grounds for giving the Tenant the One Month Notice to End Tenancy for Cause dated July 29, 2010 and his application to cancel it is dismissed without leave to reapply. The Landlord requested and I find pursuant to s. 55(1) of the Act that she is entitled to an Order of Possession to take effect on October 31, 2010.

## Conclusion

An Order of Possession to take effect on October 31, 2010 has been issued to the Landlord. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia. 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: September 22, 2010.

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Dispute Resolution Officer