



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding North Kamloops Building Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for an Order as follows:

1. An Order Cancelling a Notice to End Tenancy - Section 47.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Tenant entitled to an order cancelling the notice to end tenancy?

### Background and Evidence

The tenancy started in October 2008. Rent of \$634.00 is payable monthly. On April 30, 2013 the Landlord served the tenant with a one month notice to end tenancy for cause (the “Notice”) listing the following reasons:

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

- Significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
- Put the landlord’s property at significant risk.

The Landlord states that that the Tenant has disturbed other tenants by attempting to garner support for an elder abuse workshop. The Landlord states that a residents meeting was held in 2012 where this was discussed and that the other residents voted against having this workshop. The Landlord states that since then the Tenant has continued to seek support and has upset the other residents. The Landlord did not supply any letters from any other tenants of their complaints and the Landlord states that the tenants have not made complaints because they are afraid of repercussions from the Tenant and that in the past the Tenant has had yelling matches with other tenants. The Landlord states that the Tenant also made a complaint to the police that was investigated but that there was insufficient evidence for charges. The Landlord states that they have received lots of letters of complaint but have not filed these as evidence.

The Tenant states that not all the other tenants were against the workshop as is evidenced by the vote results from the meeting in 2012. The Tenant states that any yelling has not come from the Tenant as she has a medical condition that restricts her voice. The Tenant states that on one occasion the yelling was by another tenant and that this was eventually resolved between this tenant and the Tenant themselves. It is noted that at the onset of the Hearing, the Tenant was asked to speak louder as her voice was very low pitched. The Tenant states that the Landlord has not received lots of letters or complaints, that the management has never raised any complaints with her, and that no other tenant has spoke to the Tenant about any problems.

The Landlord states that the Tenant uses her wheelchair with her hands and then gives food to other tenants with her hands touching the food. The Landlord states that this seriously jeopardizes the other resident's health whose immune systems are not good. The Tenant states that she does not touch the wheels of the wheelchair, that she uses a metal bar to move the wheelchair and that this bar is always disinfected. The Tenant states that she has taken a food safety course and has never touched food directly but has touched plates or glasses that she has offered other tenants.

The Landlord states that the Tenant has placed the property at risk by having articles blocking the door to the unit and that the Tenant's unit shows near borderline hoarding. The Landlord states that no safety inspection by the fire department has taken place and that the Landlord relies on BC Housing to determine if there is any hoarding in a unit. The Landlord states that BC Housing did inspect the unit last year but has not been asked again since they are very busy. It is noted that the letter from BC Housing in relation to this inspection did not note any problems with hoarding. The Landlord states that they recently made inspections of the unit, directed the Tenant to remove the articles by her door and that some things were thereafter removed by the Tenant. No photos of the unit were provided by the Landlord.

The Tenant states that she is not a hoarder and that as she is in a wheelchair, she cannot have articles impeding her movement while in the wheelchair. The Tenant states that on one inspection the Landlord has her remove a coat hanger by her door and that the Tenant complied. The Tenant states that she complies with all requests of her Landlord in relation to the unit.

### Analysis

Ending a tenancy is a serious matter. Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Although the Landlord has stated that the Tenant has disturbed other tenants, no letters from these tenants of such disturbance were provided. Although the Landlord may have been disturbed by the Tenant's actions in lobbying for a workshop on elder abuse, I do not find that seeking out information on rights and garnering support for this information provision constitutes anything contemplated under the Act as significant interference or unreasonable disturbance. This is particularly true where other residents supported the workshop. I find the Landlord's evidence of food contamination by the Tenant to be wholly unsupported and a disconcerting take on the Tenant's helpfulness. This evidence does not support a finding of significant jeopardy to anyone's health.

Given that the Landlord did not provide photos of the Tenant's unit showing evidence of exit and entry blockage or other signs of hoarding, and considering that the Landlord has not called the fire department to inspect the unit for its safety in relation to other tenants or the building, and accepting the Tenant's evidence of use of a wheelchair in the unit, I find that the Landlord has not provided evidence of a significant risk to the property. As a result, I find on a balance of probabilities that the Landlord has not substantiated any cause to end the tenancy and I find therefore that the Notice is not valid. The Notice is cancelled and the tenancy continues.

#### Conclusion

The Notice is cancelled.

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: June 04, 2013

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Residential Tenancy Branch

