



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Greater Victoria Housing Society  
and [tenant name suppressed to protect privacy]

## **FINAL DECISION**

### Dispute Codes:

CNC

### Introduction

Both parties were present at the initial hearing held on May 23 and the reconvened hearing held on June 28, 2013. An interim decision was issued and should be read in conjunction with this final decision.

At the start of the reconvened hearing the parties were reminded that they continue to provide affirmed testimony.

### Preliminary Matters

The landlord submitted fifteen pages of evidence, that included a copy of the tenancy agreement; a 1 Month Notice to End Tenancy for cause issued on April 10, 2013; an email agreeing to a previous hearing date change; a letter issued by a complainant; an October 3, 2012 email sent to the landlord by the tenant; an October 4, 2012 letter from the landlord to the tenant and proof of service of the evidence.

The tenant supplied a copy of the 1 Month Notice to End Tenancy for Cause issued on April 10, 2013 and a typed letter written by the tenant.

### Background and Evidence

The tenancy commenced on December 15, 2009, rent is due on the 1<sup>st</sup> day of each month.

On April 10, 2013 a 1 Month Notice to End Tenancy for Cause was issued to the tenant and sent to the tenant via registered mail; he applied to dispute the Notice on April 17, 2013.

The Notice had an effective date of May 31, 2013.

The Notice indicated that the tenant has:

- Significantly interfered with or unreasonable disturbed another occupant or the landlord.

The Notice was issued on the same date that a letter was given to the landlord by their witness/complainant. The letter described an altercation between the tenant and complainant that was initiated when the tenant thought the witness was taking pictures of feral cats that he feeds outside of the rental building. The complainant said she was not taking pictures of the cats, but was texting.

The tenant said that the complainant rammed him with her bike; the complainant said that the tenant repeatedly swore at her and that she did then put her finger in his face, to warn him that she would not allow him to abuse her. Other tenants were present and witnessed the altercation.

The tenant and his witness both confirmed that an altercation occurred on April 9, 2013. The tenant said that the complainant has caused many problems herself and that she swore at him, threatened to have her sons beat him up and that she rammed him with her bike.

The tenant's witness said that he saw the altercation that occurred on April 9, 2013 and that both the tenant and the complainant engaged in swearing at each other. The witness stated that the complainant rammed the tenant with her bike as she was heading toward the elevator and that he heard her say she would have her sons assault the tenant. When the complainant was taking pictures of the cats the witness saw this as an attempt to upset the tenant as there has been past conflict in relation to the cats being fed

A copy of an email sent to the landlord by the tenant on April 17, 2013 indicated that the complainant had been aggressive and had rammed him with her bike.

The landlord's witness said that a number of months ago the tenant had bumped into a bag she was carrying out of an elevator and that she had been bruised. The witness had shown the bruise to the landlord's staff member.

The tenant supplied a number of letters of support and copies of emails sent by his witness to the landlord, in relation to past conflict that is occurring between occupants of the building.

The landlord said that there is likely equal animosity and bad behaviour occurring between the parties. The day the landlord received the letter of complaint they issued the 1 Month Notice as the landlord believed there had been an assault and that the complainant had been bruised.

The landlord supplied a copy of an October 14, 2012 email sent to the tenant indicating that the landlord does not get involved in interpersonal conflict and that any complaints

in relation to other occupants must be made in accordance with the formal complaint procedure.

The tenant supplied a copy of the Tenant Complaint Process form given to him by the landlord. This form outlines the steps that must be taken when a tenant has a complaint about another tenant. The form encourages people to be respectful and that once a complaint is received it will be investigation, communication will occur with the person being accused of causing a problem and allowed to provide their version of events.

The tenant said that he has received 2 letters threatening eviction, without the benefit of any investigation of the allegations having occurred.

The complainant stated that since the Notice has been issued there have not been any problems with the tenant.

### Analysis

Section 28 of the Act requires a landlord to protect a tenant's quiet enjoyment of the rental unit. When one party engages in behaviour that disturbs the quiet enjoyment of another occupant then the landlord has a responsibility to take action. From the evidence before me I find that the tenant and complainant have each engaged in behaviour that aggravates the other and that both parties are responsible for the conflict that is occurring.

There was no evidence before me that an assault had occurred; the complainant could not recall when she had received a bruise but even if she had I would find it was the result of inadvertent behaviour of the tenant, who had bumped into a bag the complainant was carrying.

There was no evidence of any significant interference by the tenant that would exceed the behaviour of the complainant. I find that any unreasonable disturbance was the result of both parties equally engaging in behaviour one would not expect of mature adults. On the balance of probabilities I find that the tenant acted as inappropriately as the complainant.

The landlord has a formal process for complaints and during the hearing I stressed that the tenants must follow that process if they believe another occupant is causing disturbances. It is not for a tenant to enter into conflict with other occupants. Once the landlord has a complaint that has been made via the proper process the landlord is then able to investigate the complaint and, if that complaint is not investigated any Notice ending tenancy would be called into question.

The tenant was warned that swearing and otherwise cajoling another occupant, over a period of time, could result in a loss of quiet enjoyment to that person. The tenant also has an equal right to quiet enjoyment. I do note that the complainant has said that since the Notice was issued the tenant has ceased communicating with her. Whether

this is due to the efforts of both parties or not, it is recommended that the tenant continues to avoid engaging with the complainant.

Therefore, I find that the 1 Month Notice to End Tenancy for Cause issue on April 10, 2013 is of no force and effect. The tenancy will continue until it is ended in accordance with the Act.

### Conclusion

The 1 Month Notice to End Tenancy for Cause issued April 10, 2013 is of no force and effect.

This final 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 28, 2013

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Residential Tenancy Branch