



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

**Dispute Codes:** CNC, FF, OPC, MNDC

## **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a One Month Notice to End Tenancy for Cause dated June 19, 2012, a cross application by the tenant seeking to cancel the One-Month Notice to End Tenancy for Cause and seeking monetary compensation.

Both parties were present and I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, which has been reviewed. The parties were also permitted to present oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

## **Preliminary Matter**

The tenant was requesting that a One Month Notice to End Tenancy for Cause be cancelled under section 47 of the Act. In the same application, the tenant has also made a claim for \$10,000.00 for damages under section 67 of the Act.

The Residential Tenancy Rules of Procedure, Rule 2.3 states that, if, in the course of the proceeding, the arbitrator determines it appropriate to do so, the officer may dismiss unrelated disputes contained in a single application with or without leave to reapply.

I find that the portion of the tenant's application relating to a monetary claim pertains to an unrelated dispute that is not connected with the One Month Notice to End Tenancy for Cause issued by the landlord under section 49 of the Act.

For this reason, I hereby sever the monetary claim from the issue of ending the tenancy. Accordingly, this hearing will only deal with the One Month Notice to End Tenancy. The monetary claim is therefore dismissed with leave to reapply in a separate application.

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

Is the landlord entitled to an Order of Possession based on the One Month Notice? Or,

Should One Month Notice to End Tenancy be cancelled as requested by the tenant?

**Background and Evidence**

The rental complex consists of 5 rooms with shared kitchen and bathrooms amongst the tenants. This tenancy began on May 11, 2013. The current rent is \$450.00 and the landlord is holding a security deposit of \$225.00 on behalf of the tenant.

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated September 27, 2013, written statements from both the landlord and the tenant, copies of witness statements and proof of service.

The landlord testified that, despite being cautioned at a previous hearing, in which the tenant was successful in canceling a One Month Notice to End Tenancy for Cause, the tenant has continued to engage in conduct that disrupts and interferes with other residents.

The decision from the previous hearing, held on August 19, 2013 contained the following statement:

*"I grant the tenant's Application and find the tenancy will remain in full force and effect. However, I caution the tenant that she should considered herself sufficiently warned that any disturbances such as outbursts or sustained periods of yelling are of significant impact that the landlord may seek to end the tenancy and may be found to have just cause to do so."*

The landlord testified that, since that time, they have received numerous complaints about similar conduct by the tenant from other residents in the complex and even from neighbours. The landlord submitted statements from several individuals who did not attend the hearing and these letters supported the landlord's allegations.

According to the landlord, the tenant has monopolized one of the two bathrooms and has bothered others trying to use the kitchen. The landlord testified that the tenant has changed locks on her room and the bathroom, which is not permitted under the Act.

In addition to the above, the landlord testified he has personally been subjected to the tenant's wrath, including yelling, foul language, name-calling, insults and threats.

The landlord stated that he has lost renters, who ended their tenancies and demanded refunds on their rent, because of the tenant's outbursts and their apparent fear of the tenant. The landlord testified that it is difficult to find residents who will tolerate the stressful atmosphere that this tenant has generated in the home.

Given the above, the landlord is requesting a Order of Possession based on the one-month Notice.

The tenant acknowledged that she has raised her voice and yelled at others, particularly while she was being threatened or assaulted by people in the complex or subjected to thefts of her personal property. The tenant stated that she feels this reaction is understandable under such conditions.

The tenant also admitted that she yelled at the landlord and used foul language in communicating with the landlord, but explained that this was due to her frustration over the fact that the landlord refused to take any action against the other renters who have been tormenting her with physical attacks and subjecting her to sexual harassment.

The tenant denied changing the lock on the bathroom, but admitted that she did allow her boyfriend to change the lock on her bedroom door, for security reasons.

The tenant pointed out that the rental unit is “a ghetto” with mentally ill people and those addicted to alcohol and drugs. The tenant testified that there are police reports that support her testimony. The tenant stated that she would be willing to move, but is having a problem finding another home. The tenant stated that the One-Month Notice should be cancelled as it is not warranted.

### Analysis

It is necessary to establish whether or not the Tenant violated the Act by engaging in conduct that significantly interfered with or unreasonably disturbed another occupant or the landlord, put the landlord's property at significant risk, and seriously jeopardized the health, safety or lawful right of another occupant or the landlord.

Section 31(2) of the Act states that a tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change and section 31(3) of the Act states that a tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to this, or a dispute resolution officer has issued an order permitting the change.

In this instance I find that the tenant had changed the lock on the door of her room without first obtaining the landlord's permission or, failing that, obtaining a decision and a legal order. With respect to the tenant's noncompliance with the Act, I find that this significantly interfered with the landlord.

I do not accept the tenant's position that she was justified in changing locks without going through the proper steps. I find that, if the tenant genuinely believed that changing the locks was warranted by the circumstances, the tenant had a right under the Act to make an application for dispute resolution seeking an order permitting her to change the locks. This would have to be done prior to replacing the lock.

I accept the testimony of both parties that the tenant did yell at the landlord and others on more than one occasion and also used inappropriate language. I find that this was done, after being warned by the previous arbitrator that such behaviour could end the tenancy. I find that this constitutes unreasonable disturbance and significant interference under the Act.

Given the above, I find that the One-Month Notice is valid and that the tenant's Application requesting that the Notice be cancelled must therefore be dismissed.

Based on the evidence and the testimony discussed above, I hereby dismiss the tenant's application without leave. I hereby grant the landlord an Order of Possession effective November 30, 2013 at 1:00 p.m.

The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The portion of the tenant's application to cancel the One Month Notice to End Tenancy for Cause is dismissed and the monetary claim is dismissed with leave to reapply.

The landlord is entitled to reimbursement of the \$50.00 cost of the application and is order to withhold this amount from the tenant's security deposit refund.

### **Conclusion**

The landlord is successful in the cross application and is granted an Order of Possession based on the One Month Notice to End Tenancy for Cause. The tenant's application to cancel the Notice is dismissed and the portion of the tenant's application seeking monetary compensation for damages is dismissed with leave.

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: November 19, 2013

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Residential Tenancy Branch

