



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PENTICTON & DISTRICT SOCIETY FOR COMMUNITY LIVING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenant to cancel a 1 Month Notice to End Tenancy for Cause dated March 31, 2014 with an effective vacancy date of May 1, 2014. The grounds for the Notice were that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by personal delivery on May 15, 2014. The Tenant said that there was a delay in servicing the Landlord because of an administrative error with the Residential Tenancy Branch. The Landlord said he was willing to accept the service of the hearing package and continue with the hearing. Based on the evidence of the Tenant, and the agreement of the Landlord. I accept the Landlord was served with the Tenant's hearing package

### Issues(s) to be Decided

1. Should the Landlord's 1 Month Notice to End Tenancy dated March 31, 2014, be cancelled?

### Background and Evidence

The Landlord said the 1 Month Notice to End Tenancy for Cause was issued because he had complaints about the Tenant from a number of tenants in the rental unit. The Landlord provided a written copy of the complaint from three tenants. One of the written complaints is signed the other two are not. The Landlord said he is seeking to end the tenancy because the Tenant was involved in an altercation with another tenant H.M. in the elevator in which the Tenant allegedly stabbed tenant H.M. with his key and the wound drew blood. The Tenant said this was no true and he did not stab anyone. The Tenant said H.M. grabbed him and pushed him out of the elevator because H. M. did not want the Tenant to ride with him. The Tenant continued to say H.M. pushed him onto the ground and that was the extent of the altercation. The Landlord provide tenant

H.M. to give witness testimony. Witness H.M. said there was an altercation in the elevator on March 28, 2014 and the Tenant stabbed him on the arm with a set of keys and scratched his other arm with his finger nails. The Tenant said the Witness H.M. was lying because they had had other altercations in the past. The Tenant provided no corroborative evidence to support his testimony. Both the Landlord and the Tenant were offered opportunity to question the witness and some statements were made but no questions were asked. The Landlord provided photographs of the Witness H.M. stab wound.

The Landlord continued to say that in addition to the elevator incident he has received a number of written noise complaints about the Tenant from other tenants in the building. The Landlord said he talked to the Tenant in early May, 2014 about the complaints and the Tenant stopped playing his music loud, but the Landlord said he now has had new complaints this morning about the Tenant playing loud music.

The Landlord provided two witnesses to testify about noise violations by the Tenant. Witness R.R. said he has written 3 letters to the Landlord about the Tenant play his music to loud early in the morning and late at night. The letters are dated March 28, 2014, March 31, 2014 and April 3, 2014. The Witness RR said the letters indicate the Tenant has played music loudly, he is smoking marijuana in the unit and he would not cooperate with the Witness R.R.'s request for him to turn the music down. The Tenant said Witness R.R. was lying and he has cooperated with the Landlord and the other tenants by turning his music down.

The Landlord called his second Witness R.B. who said the Tenant's music has a loud base and it echoed in her rental unit to the point that it is very disturbing for her. The Witness R.B. said she approached the Tenant to turn the music and the base volumes down and the Witness R.B. said the Tenant yelled at her. The Tenant said the Witness R.B. use to be a friend and now she is saying this because they are not friends anymore. The Landlord asked the Witness if the Tenant has started playing his music loudly again. The Witness R.B. said the music stopped from May 3, 2014 until this weekend when the Tenant started playing the music loudly again. The Witness R.B. said she has made another complaint to the Landlord.

The Tenant said in closing that he has been a good tenant and the allegations against him are untrue. The Tenant said he did not stab H.M. and he does not play his music loud enough to bother anyone.

The Tenant did not provide any corroborative evidence to support his claims.

The Landlord said in closing that he is not sure of all the information around the elevator incident, but H. M. Came to his office bleeding and said the Tenant stabbed him with his key. The Landlord said this is a real safety issue and is one reason for issuing the Notice to End Tenancy. The other reason the Landlord said he wants to end the tenancy is because the Tenant is not cooperating with the Landlord or other tenants in

regard to playing his music too loud. The Landlord said he wants to end the tenancy as soon as possible.

### Analysis

It appears from the testimony at the hearing that communications between the Landlord and some other tenants and the Tenant have broken down. There was contradictory testimony provided by the Tenant and the Landlord and the Landlord's Witnesses regarding the facts of the situation. It is apparent the Landlord has notified the Tenant of the noise issues that has disturbed other tenants and the Tenant modified his behaviour from May 3, 2014 to the weekend of May 31, 2014, when he started playing his music loudly again according to the Witness R.B. The Tenant denies that he has disturbed anyone with his music. This in itself may not warrant eviction although the Landlord and Witnesses have provided evidence and testimony that they have been disturbed by the Tenant play music loudly and the Tenant has not stopped his behaviour. The Tenant has provided no corroborative evidence to support his claims.

More importantly the Landlord and the Landlord's witness H.M. have testified that the Tenant stabbed the Witness H.M. and this is a serious claim about safety and the lawful rights of tenants in the rental complex. I accept the Landlord and Witness H.M. testimony that the Tenant stabbed the Witness H.M. as there is corroborative testimony and photograph evidence that the Witness H.M. was injured. . Section 47 (d) of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant.

In this case it is my finding that the reasons given for ending the tenancy have reached the level of **unreasonableness, significance or seriousness** required by section 47(d) of the Residential Tenancy Act. I find that the Tenant has not provide evidence to establish ground to cancel the 1 Month Notice to End Tenancy for cause dated March 31, 2014 therefore the Tenant's application is dismissed without leave to reapply. The Landlord's 1 Month Notice to End Tenancy for Cause date March 31, 2014 stands in full effect.

The Landlord did not request an Order of Possession at the hearing so no order was issued. The Landlord is at leave to apply for an Order of Possession.

Conclusion

The Tenant's application is dismissed without leave to reapply.

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 03, 2014

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Residential Tenancy Branch

