



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDC, RPP

### Introduction

This was a hearing with respect to an application by the tenants to cancel a one month Notice to End Tenancy for cause, for a monetary order and for the return of personal property. The hearing was conducted by conference call. The named parties called in and participated in the hearing.

The tenant applied to cancel a one month Notice to End Tenancy for cause dated August, 2015. The Notice to End Tenancy required the tenant to move out of the rental unit by September 30, 2015. The tenant has also applied for a monetary award in the amount of \$7,031.33, said to be for a truck rental, storage costs, damage to her motor vehicle and payment of \$5,100.00 said to be a refund of six months' rent for loss of quiet use and enjoyment. The tenant claimed in her application that she and her son have been the victims of sexual harassment and threats of eviction as well as physical threats of bodily harm.

At the outset of the hearing I reviewed the various claims of the tenant. I advised the parties that I would address the tenant's claim to cancel the one month Notice to End Tenancy for cause, but I would sever the unrelated claims brought by the tenant seeking a monetary award for damages and compensation, including compensation for loss of use and quiet enjoyment of the rental unit and these claims would be dismissed with leave to reapply.

Rule 2.3 of the Rules of Procedure applicable to this proceeding provides that:

### **2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply. Pursuant to rule 2.3 the tenants' application for a monetary award and for the return of personal property is dismissed with leave to reapply.

Issue(s) to be Decided

Should the one month Notice to End Tenancy for cause be cancelled?

Background and Evidence

The rental property is a town house complex in Chilliwack. The tenancy began in August 2014. The landlord served the tenant with a one month Notice to End Tenancy for cause. The Notice to End Tenancy was dated "August 2015". The landlord's representative said that it was sent to the tenant by registered mail somewhere between August 5<sup>th</sup> and 9<sup>th</sup>. The tenant acknowledged receiving the Notice to End Tenancy and she applied to dispute it on August 28, 2015. The stated reasons for the Notice to End Tenancy were that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that she has seriously jeopardized the health or safety or lawful right of another occupant of the landlord; that she has put the landlord's property at significant risk and that she has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord's representative testified that in July, 2015 the tenant, with the assistance of four other persons removed a gazebo belonging to the landlord from the common area of the rental property. She said that the police were called to intercede to prevent what amounted to a theft.

The landlord's representative said the tenant changed the entrance lock to the rental unit without written consent and has refused to restore the original lock despite notice to do so.

The landlord's representative said that on July 21<sup>st</sup> the tenant yelled at and "verbally attacked" another occupant employed by the landlord to re-paint or touch-up the lines and numbers designating parking stalls at the rental property. The landlord's representative testified that the woman was traumatized by the encounter with the tenant and unable to work for several days thereafter.

The landlord's representative testified that the tenant has interfered with the privacy and quiet enjoyment of other occupants and the landlord's employees, by surreptitious video recording event at the rental property without permission and by posting videos to the internet containing false and defamatory remarks about the landlord, about the landlord's representative and about her husband, who is not an employee of the landlord. The landlord's representative complained that the tenant has made repeated

false accusations of sexual harassment. She said the tenants' actions have caused the landlord's maintenance worker to threaten to resign.

The tenant disputed substantially all of the landlord's allegations. She said that she received permission to take the gazebo. She said that the police have confirmed that there was no basis for a claim of theft with respect to the gazebo and no charges were ever laid. The tenant said that he has not changed the lock to the door of her rental unit, contrary to the landlord's assertion.

The tenant said that she did have an altercation with the occupant who was painting parking lines because she was doing the painting while the tenant's car was parked in the stall and she was getting the line paint on the tenant's car. The tenant said she confronted the occupant and called the RCMP.

The tenant claimed that this was just one case of an ongoing campaign of harassment by the landlord's representative and her husband. The tenant said that she loaned a sum of money to the landlord's representative's husband. The tenant said that she and her adult son have been the victims of harassment and her son in particular has been sexually harassed by the landlord's representative's husband. This matter is the subject of a police investigation.

There have been other disputes between the tenant and the landlord since this tenancy began. One of the documents submitted as evidence was a copy of an agreement made between the landlords and the tenant dated March 18, 2015. The agreement provided that in consideration for the tenant stopping arbitration proceedings for damages to her personal property, the tenant would receive free rent for the period from April 15, 2015 until December 31, 2015. The agreement provided that the tenant will begin paying rent again on January 1, 2016. The tenant said that she intends to move out of the rental unit as soon as her free rent period has expired. The tenant testified that she has been filming interactions with the landlord's representatives based on advice from the police. The tenant contends that she has used video recording because the landlord's representatives are pursuing a vendetta and they are: "out to get her" and are bent on having her evicted.

### Analysis

The evidence presented by the parties reveals that there is a great deal of acrimony and hostility between the tenant and the landlord and the landlord's representatives. There have been several police attendances and the tenant has apparently made a number of reports to the police alleging harassment, including what was referred to as a sexual

harassment of her son. I was provided with more than 100 pages of typed documents describing alleged controversies and disputes at the rental property over the course of this tenancy.

There is no doubt from the documents and the testimony of the parties at this hearing, that the tenancy is dysfunctional and should end, but I find that the landlord has failed to provide sufficient evidence to establish, on a balance of probabilities that the events complained of were the result of the unprovoked actions of the tenant. All of the events are disputed, or have been explained by the tenant as resulting from harassment or provocation. I find that the landlord has not proved that there are sufficient grounds to support the Notice to End Tenancy for cause. I note that the landlord alleged, but did not prove that the tenant engaged in illegal activity that adversely affected the quiet enjoyment of other occupants.

I find that the Notice to End Tenancy dated August, 2015 should be cancelled and I order that the tenancy continue until ended in accordance with the *Residential Tenancy Act*. This decision does not prevent the landlord from issuing another Notice to End Tenancy if there are proper grounds to do so.

### Conclusion

The Notice to End Tenancy has been cancelled. The tenant's application for a monetary award and for other relief has been dismissed with leave to reapply. The tenant did not pay a filing fee for her application and no filing fee is awarded.

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: December 14, 2015

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Residential Tenancy Branch

