



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

Dispute Codes      CNC

## Introduction

The Application for Dispute Resolution filed by the Tenants seek an order to cancel the one month Notice to End Tenancy dated May 9, 2016

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was served on the Tenant by posting on May 9, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord resides on May 19, 2016. With respect to each of the applicant's claims I find as follows:

## Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated May 9, 2016?

## Background and Evidence

On November 3, 2015 the parties entered into a fixed term tenancy agreement that provided that the tenancy would start on November 9, 2015 and end on August 10, 2016. The tenancy agreement provided that the tenant(s) would pay rent of \$1000 per month payable in advance on the 10<sup>th</sup> day of each month. The tenant(s) paid a security deposit of \$500 at the start of the tenancy. .

The landlord testified as follows:

- The tenant paid the rent for the months of December 2015, January 2016 and February 2016 late.

- The rental unit is a 2 bedroom unit. The tenants have two sons living with them who were not included on the tenancy agreement. One of the sons was seen paying his mother \$600. One of the son's friends stays over.
- The downstairs tenant has complained of screaming, fighting and disturbances which often occur after midnight.
- The tenants have failed to maintain the yard as promised.
- The tenants have damaged a fence on the property.

The tenant testified as follows:

- She acknowledged paying the rent late on 3 occasions. It occurred when the payment period for work was extended a day.
- Her son contributes to food.
- The fence fell down on its own because it is in poor condition. .
- She has attempted to maintain the property

Grounds for Termination:

- Tenant is repeatedly late paying rent
- Tenant has allowed an unreasonable number of occupants in the unit/site
- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord
- ...
- Tenant has assigned or sublet the rental unit/site without landlord's written consent

Analysis:

I determined the landlord has sufficient cause to end the tenancy. Policy Guideline 38 provides that 3 late payments is sufficient to amount to a repeated late payments. The tenant acknowledged responsibility for 3 late payments. The explanation of the Tenant that the late payments were caused by the date in which the tenant was paid is not a sufficient explanation as to why payment is late. Legally, this is not a sufficient reason for why the landlord should be delayed in receiving the rent on the due date. I do not regard a three month delay in serving the notice as to amount to a waiver of this ground. Further, the tenant did not dispute the sworn evidence of the downstairs tenant that she is being woken up on a regular basis by vibrating music, constant fighting, screaming and yelling, slamming doors often after midnight. I determined there were sufficient grounds to end the tenancy on the basis that the tenants have significantly interfered with or unreasonably disturbed another occupant.

Given my determinations above it is not necessary to consider the other grounds.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord has established sufficient cause to end the tenancy. As a result I dismissed the tenant's application to cancel the one month Notice to End Tenancy. The rent has been paid for the period June 10 to July 9, 2016. I order that the tenancy shall end on the date on July 9, 2016.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. As a result I granted the landlord an Order for Possession effective July 9, 2016.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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 20, 2016

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Residential Tenancy Branch