



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

CNC FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, submitted to the Residential Tenancy Branch on May 20, 2016 (the "Application").

The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order cancelling a 1 Month Notice to End Tenancy for Cause, dated May 15, 2016 (the "1 Month Notice"); and an order granting recovery of the filing fee.

During the hearing, the Landlord confirmed the Tenant's Application and the Notice of a Dispute Resolution Hearing were received on May 27, 2016. They were served in person by the Tenant's boarder. I find the Application and the Notice of a Dispute Resolution Hearing were duly served on the Landlord on that date.

Each of the parties appeared at the hearing on their own behalf. All parties giving evidence provided a solemn affirmation.

No issues were raised with respect to the documentary evidence submitted and received by the parties.

The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer to only the relevant facts and issues in this Decision.

### Issues to be Decided

Is the Tenant entitled to an order cancelling the 1 Month Notice?

Is the Tenant entitled to recover the filing fee?

### Background and Evidence

The Landlord provided with his evidence a copy of the tenancy agreement between the parties. It confirms that a month-to-month tenancy commenced on April 1, 2011. Under the terms of the written agreement, rent in the amount of \$1,300.00 is due on the first day of each month. Subsequently, the parties entered into an oral agreement that rent is due on the 7<sup>th</sup> day of each month. A security deposit in the amount of \$650.00 was paid to the Landlord.

The Landlord issued the 1 Month Notice on May 15, 2016. The 1 Month Notice had an effective date of June 15, 2016; the effective date corrects to June 30, 2016, by operation of section 53 of the *Act*. During the hearing, the Tenant confirmed the 1 Month Notice was received on May 15, 2016.

The Landlord provided oral testimony concerning events that led to the 1 Month Notice being issued. Specifically, he testified that the Tenant has made alterations to and damaged the rental unit and residential property, contrary to the tenancy agreement.

The Landlord provided oral testimony and documentary evidence of the alterations and damage he alleged has been caused by the Tenant. First, the Landlord claims the Tenant changed locks on the rental unit, without the Landlord's permission, in late 2014 or early 2015.

In response, the Tenant acknowledged that she did change locks at the rental unit but did so out of concern for her safety. According to the Tenant, the locks were changed because a former boarder had been selling drugs from the rental unit and was asked to leave. Subsequently, the Tenant found a firearm in the rental unit. As a result of these events, the Tenant was concerned for her safety.

Second, the Landlord testified that the Tenant had repainted the rental unit without permission, as required by the tenancy agreement. The Landlord advised the rental unit had been renovated and painted a neutral beige colour before the Tenant moved in,

but is now painted blue and white. Before and after photographs of the rental unit were provided by the Landlord in support.

The Tenant testified that she did repaint the unit as claimed by the Landlord.

Third, the Landlord advised that the Tenant had cut a large branch off a cherry tree in the front yard of the rental unit on or about May 15, 2016, ostensibly to make room to park her vehicle. The Landlord says this was done after the tree had already been cut back to make room for the Tenant's vehicle at the Tenant's request.

With respect to the tree, the Tenant provided oral testimony confirming she cut the branch off of the tree. She advised this was done because there was not enough room to park the truck, and that branches had resulted in scratches to her vehicle. The Landlord denied there has been any damage to the Tenant's truck.

Fourth, the Landlord provided oral testimony and photographic evidence that the Tenant was parking her truck on the front lawn, resulting in ruts in the grass and damage to the lawn. However, the Landlord confirmed the Tenant no longer parks on the lawn and the issue has been resolved, but that the Tenant continues to threaten to call a city by-law officer concerning parking at the rental unit.

In response, the Tenant gave oral testimony confirming she no longer parks on the lawn and has previously seeded it. She also confirmed the issue of parking at the rental unit is ongoing.

Fifth, the Landlord provided oral testimony about an accordion door that has been installed in the rental unit, between the kitchen and the stairs. The Landlord's evidence, supported by photographs, was that the door is secured with an unsightly piece of wood attached to the wall.

The Tenant acknowledges the accordion door was installed in the rental unit as alleged but stated it is no more than a curtain. Further, the Tenant stated the wooden block that has been attached to the wall can be removed and the holes repaired at the end of the tenancy.

Sixth, the Landlord testified about damage to the vinyl siding on the property. He alleged the damage to the siding was caused by the installation of a cable wire by one of six boarders who have lived with the Tenant over the past five years. The Landlord says the particular style and colour of siding is no longer available.

In reply, the Tenant stated the cable is a Shaw cable and that she has only ever used Telus. The Tenant did not respond to the Landlord's suggestion that the cable was installed by one of her boarders.

### Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy for cause if the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property.

In addition, the Landlord referred me to Clause 3 of the addendum to the tenancy agreement, which states:

“Any alternations to the property must be agreed to by the Landlord.  
(Including new cables or wiring through the exterior walls for  
phone/internet/dish etc).” [reproduced as written]

The Landlord has provided oral testimony and photographic evidence of alterations and damage to the rental unit and rental property. Taken as a whole, I find the alterations and damage to the rental unit and residential property described by the Landlord constitute extraordinary damage and were performed contrary to the tenancy agreement.

In light of my finding that the alterations and damage to the rental unit and residential property are extraordinary damage, the Tenants' Application is dismissed.

When a tenant's application to cancel a notice to end tenancy is dismissed, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord if the notice complies with section 52 of the *Act*. Having reviewed the 1 Month Notice, I find it complies with section 52 of the *Act*.

Accordingly, I grant the Landlord an order of possession, which will be effective on June 30, 2016, at 1:00 p.m.

As the Tenant's Application has not been successful, I decline to grant an order for recovery of the filing fee.

Conclusion

The Tenant's Application is dismissed.

By operation of section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective June 30, 2016, at 1:00 p.m. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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 27, 2016

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Residential Tenancy Branch