



# 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 in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order cancelling a notice to end tenancy - Section 47; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. It is noted that the Tenant submitted late evidence however the Landlord made no objection to its consideration.

### Issue(s) to be Decided

Is the notice to end tenancy valid?

### Background and Evidence

The tenancy started on December 1, 2015. Rent of \$1,625.00 is payable on the first day of each month. On May 17, 2016 the Landlord served the Tenant with a one month notice to end tenancy for cause (the “Notice”). The reasons for the Notice include that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The Landlord states that the Strata informed the Landlord that the Tenant is operating an airbnb business out of the unit. The Landlord states that the Strata provided the

Landlord with the addresses of other locations that the Tenant was known by the Strata managers as having operated an airbnb business in other locations prior to this tenancy. The Landlord states that the Strata informed the Landlord that several different persons have been seen coming and going from the unit with luggage. The Landlord states that the Tenant has placed a door bell by the door and then later removed it. The Landlord states that he believes the information provided by the Strata and that the Strata has now fined the Landlord \$1,000.00 in fines for contravening the Strata rules that prohibit the use of the unit for such business purposes as airbnb. The Landlord states that he attended the unit on May 12, 2016 and that a woman answered the door but did not recognize the Tenant's name when asked. The Landlord states that on this date he called the Tenant who met the Landlord some time later in the lobby. The Landlord provided copies of an airbnb ad and states that the Tenant's phone number is on this ad.

The Tenant denies using the unit for a business and that the woman who answered the door on May 12, 2016 was his girlfriend and that she was just confused about the Tenant's name as she was half asleep and disoriented when she answered the door. The Tenant states that he met the Landlord in the lobby on that date after coming from shopping outside the unit. The Tenant states that he did not provide any statement from his girlfriend for this hearing. The Tenant states that the ad relied on by the Strata is not a valid web page as the Tenant was unable to link to the page identified. Further the Tenant states that the photos of the ad do not depict his unit. The Tenant describes his girlfriend as blond and 5' 9". The Tenant states that he has no idea how much his girlfriend weighs. The Tenant also gave his girlfriend's last name. When asked about the ethnicity of this name, the Tenant then confirmed the ethnicity of the girlfriend as non-Caucasian. The Tenant states that he does not believe the Landlord will have to pay any fine over \$\$\$\$\$. The Tenant denies living in any location other than his mother's home prior to this tenancy. The Tenant states that he does not know why the Strata wants him out but that he found his car scratched in the parking lot. The Landlord states that the woman who answered the door on May 12, 2016 was Caucasian and not the ethnicity described by the Tenant.

The Landlord states that if the Notice is found to be valid he would accept an order of possession for either June 30 or July 31, 2016 in order to provide the Tenant with sufficient time to find another rental unit.

### Analysis

Section 47(1) provides that a landlord may end a tenancy by giving notice to end the tenancy where, inter alia, the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or has seriously jeopardized the health or safety or a lawful right or interest of the landlord.

I found the Landlord's oral evidence of the Strata fines to be persuasive and supported by the numerous warning letters from the Strata about the use of the Tenant's unit. I did not find the Tenant's evidence of his girlfriend being the woman in the unit on May 12, 2016 to be even slightly credible. As a result I prefer the Landlord's overall evidence and find that the Landlord has substantiated on a balance of probabilities that the Tenant has been operating an airbnb business out of the rental unit. I also find that the Landlord has substantiated that as a result of the Tenant's actions the Landlord has faced significant financial penalty which I consider to be an unreasonable disturbance. As such I find that the Notice is valid and I dismiss the Tenant's application.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

As the Notice complies in form and content and as the Tenant's application has been dismissed I find that the Landlord is entitled to an order of possession. I therefore grant an Order of Possession to the Landlord effective July 31, 2016.

Conclusion

The Tenant's application is dismissed.

**I grant** an Order of Possession to the Landlord effective 1:00 p.m. on July 31, 2016.

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: July 4, 2016

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Residential Tenancy Branch