



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CWP INVESTMENTS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the "Act"), to cancel 1 Month Notice to End Tenancy for Cause, (the "Notice") issued on June 30, 2016.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord(s have) has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Should the Notice issued on June 30, 2016, be cancelled?

### Background and Evidence

The parties agreed that the Notice was served on the tenant indicating that the tenant is required to vacate the rental unit on July 31, 2016.

The reason stated in the Notice was that the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- the tenant has engaged in illegal activity that has, or is likely to:
  - damage the landlord's property'
  - Adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; and

- Breached of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord's agent testified that there have been ongoing noise complaints from the other occupants. The agent stated that they have also received a caution letter from the municipality that any further violation that the property owner will be subject to daily fines. Filed in evidence are letter from other occupants and from the municipality.

The landlord's agent testified that since the Notice was issued the tenant was arrested and charged with two counts of uttering threats to cause death or bodily harm and one count of mischief under \$5,000.00. The agent stated that the tenant threatened the occupants and took a golf club and smashed the walls causing damage

The landlord's agent testified as a result of the criminal charges the tenant was released on bail conditions which they are not allowed at the rental premises except to obtain their belongings in the company of a peace officer. Filed in evidence is a copy of the Recognizance of Bail.

The tenant testified that they have not lived at the property for 24 days. The tenant stated that have been charged with criminal offences and are not allowed to attend the property. The tenant stated the just want to obtain their belongings.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to prove the reasons stated in the Notice.

In this case the landlords have received noise complaints from other occupants and have also received a letter from the municipality that they are now subject to fine under the noise by-law as a result of ongoing noise from the tenant.

Since the Notice was issued the matter has escalated as the tenant threatened two other occupants and caused damage to the landlord's property with a golf club. The tenant is now prohibited from attending the property under a court order. The tenant has indicated they just wanted their belongings. The tenant is entitled to recover their property as set in their Recognizance of Bail.

I find the Notice issued on June 30, 2016, has been proven by the landlord and is valid and enforceable.

Therefore, I dismiss the tenant's application to cancel the Notice issued on June 30, 2016. As the tenancy legally ended on the effective date of the Notice, July 31, 2016, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act.

However, as the tenant is not allowed at the rental property and serving the document by posting to the door or by registered mail will not be effective and the tenant was unable to provide an address for service for the order of possession as they have no fixed address.

I find the tenant has been sufficient served with the order, as I Ordered the tenant at the hearing to vacate the premises no later than **Friday, August 19, 2016 at 1:00pm**. Arrangements for compliance with my order must be in compliance with the terms of their Recognizance of Bail.

Therefore, I find the landlord is entitled to an order of possession effective on August 19, 2016 at 1:00pm. This order is not required to be served on the tenant as I have found the tenant was sufficiently served at the hearing. This order may be filed in the Supreme Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant's application to cancel the Notice, issued on June 30, 2016 is dismissed.

The landlord is granted an order of possession.

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: August 17, 2016

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Residential Tenancy Branch