



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF; CNC, RP, RR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 47; and
- authorization to recover the filing fee for its application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause, dated June 30, 2016 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlord to make repairs to the rental unit, pursuant to section 33;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for her application, pursuant to section 72.

The landlord's two agents, "landlord MG" and "landlord CP" (collectively "landlord") and the tenant and her agent, JW (collectively "tenant") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Landlord MG confirmed that she is the senior property manager and landlord CP confirmed that he is the managing broker, both for the landlord company named in this application. Both agents confirmed their authority to speak on behalf of the landlord company at this hearing. The tenant confirmed that her agent, who is also her son, had permission to speak on her behalf at this hearing.

"Witness LC" testified on behalf of the landlord at this hearing and both parties had an equal opportunity to question the witness. This hearing lasted approximately 98 minutes in order to allow both parties to fully present their submissions.

Both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

The tenant confirmed personal receipt of the landlord's 1 Month Notice on June 30, 2016. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on June 30, 2016.

### Issue to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Is the tenant entitled to an order requiring the landlord to make repairs to the rental unit?

Is the tenant entitled to an order to allow her to reduce rent for repairs, services or facilities agreed upon but not provided?

Is either party entitled to recover the filing fee paid for their application?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the parties and their agents, not all details of the respective submissions and arguments are reproduced here. The principal aspects of both parties' claims and my findings are set out below.

The landlord testified that this tenancy began on January 1, 2016. The tenant said that it began on December 15, 2015, when she moved in to the rental unit. Both parties agreed that monthly rent in the amount of \$1,800.00 is payable on the first day of each month. Both parties agreed that a security deposit of \$900.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing.

The landlord issued the 1 Month Notice, with an effective move-out date of July 31, 2016, for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*

The landlord seeks an order of possession based on the 1 Month Notice and to recover the \$100.00 filing fee paid for its application.

The tenant seeks to cancel the landlord's 1 Month Notice and to recover the \$100.00 filing fee. The tenant also requests repairs to be completed in the rental unit, as well as a future rent reduction of \$300.00 per month until the repairs are completed.

The landlord explained that the tenant has been belligerent and threatening, often screaming at the landlord and its agents during their communications. The landlord maintained that this has been ongoing since the beginning of this tenancy. The landlord's two agents stated that they have observed other landlord employees, as well as the building developer company personnel who still manage the rental unit, suffering the same treatment by the tenant. They stated that incidents involving the tenant, have been reported by witness LC and the 1 Month Notice was issued after numerous complaints and their own personal experience. The landlord noted that the landlord, the building developer company and other repair personnel are afraid to enter the rental unit in order to perform repairs that the tenant has requested. The landlord said that the developer company personnel now require the landlord to have the landlord's employees present in the rental unit each time they attend at the unit for repairs or inspections.

Witness LC testified that he is a customer relations coordinator for the building developer company and he has attended the tenant's rental unit with repair personnel on a number of occasions to perform repairs and inspections requested by the tenant. Witness LC stated in his testimony and emails that he did not feel safe around the tenant and he now requires the landlord's agent to attend all rental unit appointments with him. Witness LC explained that the tenant has yelled at him, made racial remarks towards him and threatened him with a knife.

The tenant denied all of the above allegations, indicating that she did not threaten anyone with a knife, make racial remarks, or act in the manner described by the landlord. The tenant said that she has requested numerous repairs to be completed by

the landlord, many of which are still unresolved, and she has been upset in dealing with the landlord, who she says ignore her. The tenant noted that witness LC passed gas in her apartment on one occasion, so she told him to leave. She explained that witness LC touched her inappropriately, which witness LC denied, and she reported it to the landlord but nothing was done.

### Analysis

According to subsection 47(4) of the Act, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. The tenant received the 1 Month Notice on June 30, 2016, and filed her Application to dispute it on July 4, 2016. Therefore, she is within the time limit under the Act. The onus, therefore, shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice.

On a balance of probabilities and for the reasons stated below, I find that the landlord proved that the tenant significantly interfered and unreasonably disturbed the landlord and its agents.

I found the landlord's two agents and witness LC to be more credible and forthright witnesses than the tenant. All three individuals provided consistent testimony, in accordance with the written emails submitted by the landlord.

I accept the testimony of the landlord's two agents who both confirmed that the tenant is belligerent and threatening towards them, often screaming, using personal insults against them and slamming doors in their face. I accept that this behaviour has been ongoing since the beginning of this tenancy towards the landlord, its agents and the building developer company personnel. I accept witness LC's testimony that the tenant has made racial remarks towards him, verbally abused, harassed and yelled at him. I accept that witness LC felt unsafe when the tenant held a knife in close proximity to him and uttered threats. Witness LC provided written emails, dated March 7, 2016 and July 11, 2016, to the landlord regarding the above.

As I have found that one of the reasons indicated on the landlord's 1 Month Notice is valid, I do not need to consider the other reasons on the notice.

Therefore, I dismiss the tenant's application to cancel the landlord's 1 Month Notice, dated June 30, 2016. I find that the 1 Month Notice complies with section 52 of the Act. I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective at 1:00 p.m. on August 31, 2016. Both parties agreed that the tenant paid

rent in full for August 2016. I find that the tenant is therefore entitled to possession of the unit until the end of August 2016.

As this tenancy is not continuing, I dismiss the tenant's Application for repairs and a future rent reduction, without leave to reapply.

As the tenant was not successful in this Application, I find that she is not entitled to recover the \$100.00 filing fee from the landlord.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 filing fee from the tenant.

### Conclusion

I grant an Order of Possession to the landlord effective **at 1:00 p.m. on August 31, 2016**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to deduct \$100.00 from the tenant's security deposit of \$900.00 in full satisfaction of the monetary award made at this hearing. The remainder of the tenant's security deposit in the amount of \$800.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

The tenant's entire application is dismissed without leave to reapply.

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 24, 2016

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Residential Tenancy Branch

