



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, OPC

### Introduction

This hearing convened as a result of the Tenant's Application for Dispute Resolution wherein the Tenant requested an Order cancelling a Notice to End Tenancy for Cause issued on June 30, 2016 (the "Notice") as well as more time pursuant to section 66 of the *Residential Tenancy Act*.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matter

The Tenant applied within seven (7) days of receiving the Notice. As he is entitled to ten (10) days pursuant to section 47 of the *Residential Tenancy Act* he applied within time and therefore did not require an extension pursuant to section 66.

### Issue to be Decided

1. Should the Notice be cancelled?

### Background Evidence

A.M. testified on behalf of the Landlord. She stated that the rental unit is located in a four story, 48-unit building. She was not able to confirm the date the tenancy began.

A.M. confirmed the Landlord wished to end the tenancy as the Tenant yells and swears at other occupants of the rental building, has threatened some with physical harm and as a result many of those occupants are frightened of him.

The reasons cited on the Notice are noted as follows:

The Tenant, or a person permitted on the property by the tenant has:

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

A.M. advised that the Tenant's rental unit is directly across from the laundry room. She confirmed that the laundry room door is heavy and on occasion slams when shut. She stated that the way in which the Tenant deals with the noise is "unacceptable", in that he yells at those using the laundry, swears through the walls and threatens them. She stated that she also has a unit near the laundry room and while she can hear the door slam, or the lid slam, she does not find this noise to be overly disruptive. She confirmed, however, that when this happens she can also clearly hear the Tenant yell at people through the walls.

A.M. further testified that others, including children, are afraid of the Tenant because he swears and yells at them and that as a result they are resistant to doing laundry as they are afraid to come in contact with the Tenant.

A.M. further testified that due to issues reported by the Tenant about the washing machine, she had a repair person enter the laundry room at 10:30 a.m. She stated that the Tenant was angry about this and claimed that the Landlord was required to give him notice of any such repairs. She confirmed that she did not believe that she was required to give notice to the Tenant, or other renters.

A.M. further testified that they have attempted to address the Tenant's concerns about noise from the laundry room, and have placed a notice on the door which advises the

renters that the door is not to be slammed and that the laundry hours are 7:00 a.m. to 9:00 p.m.

In response to my question as to whether there have been any discussions with the Tenant about moving him to another unit, she stated that they felt threatened by the Tenant, and have not been able to talk to him about this and that due to his behaviour they simply wish to have the tenancy end.

A.M. stated that this has been an issue for approximately one and a half years. She confirmed that no formal warning letters had been issued, but that they have spoken to the Tenant on numerous occasions about his behaviour as well as advising him that if it continues his tenancy would be ended.

A.M. confirmed that in November of 2015 the Tenant threatened to punch an elderly renter in the face. She stated that when this occurred R.S. spoke with the Tenant and in response the Tenant slammed the door in his face.

Introduced in evidence was a letter from the Building Manager, D.R. regarding an incident on July 20, 2016. As a result of this incident the police were called.

Also introduced in evidence was a letter from another renter in the building, A.L. who writes that she is pregnant. She further writes that on July 29, 2016 the Tenant came into the laundry room, in only his underwear, while she was doing laundry and began yelling at her and throwing her laundry basket off of a chair.

A.M. also stated that they have attempted to discuss this issue with the Tenant but that has he is so argumentative it is difficult to speak to him.

A.M. confirmed that since issuing the Notice the problems with the Tenant have continued and that she has heard him yelling at other renters through the walls.

R.S. also testified. He confirmed that he is part of the management team and does maintenance for the rental building. He stated that he was informed in November of 2015 by an elderly renter that the Tenant had threatened to punch him. He stated that the elderly renter was very upset by this incident. R.S. stated that he attempted to speak to the Tenant, and when he did so, the Tenant slammed the door in his face and said "F\*\*k you".

When I asked R.S. why they didn't issue a notice to end tenancy at that time, R.S. stated that he attempted to talk to the Tenant, and wanted to try to resolve matters without evicting him.

R.S. testified that the Tenant's behaviour has escalated. He stated that the Tenant continues to intimidate other renters, but most recently threatened the repair man who came to deal with the washing machine. He also stated that the Tenant used to be upset if people were doing laundry in the early morning, but now he yells no matter what time of day they are using the machines.

The Tenant also testified on his own behalf. He confirmed that he threatened to punch an elderly renter in the face. He explained that he was "half asleep" and that this is a "health issue"; he further claimed he had chronic depression, a sleep disorder and possibly post-traumatic stress disorder. The Tenant stated that he has no control over the first few moments when he first wakes up.

The Tenant stated that he apologize to the elderly gentleman after threatening him and informed him it was a "health issue".

The Tenant also testified that he has put signs on the washing machine to indicate it is out of service when the machine makes noise due to being unbalanced. He said that the Landlord has simply thrown these signs in the garbage rather than dealing with it.

The Tenant also confirmed that he yelled at the pregnant renter and that he confronted her while in his underwear. He also stated that he regularly yells at other renters, but that he isn't responsible for his behaviour as he is asleep and doesn't recall doing it until he is told.

In response to the R.S.'s claim that he has spoken to the Tenant about his behaviour, the Tenant stated that while R.S. has talked to him, he has also threatened him, and after the incident with the elderly renter, the Tenant claims R.S. came at him with his fists clenched.

R.S. confirmed that he did not have any supporting medical evidence with respect to his alleged condition.

### Analysis

After considering all of the written and oral submissions submitted at this hearing, I find that the Landlord has provided sufficient evidence to show that the Tenant has:

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

In this case I find that the Tenant had been verbally warned by the Landlord on numerous occasions that his behaviour was unacceptable. I find the Tenant was provided sufficient warnings by the Landlord's representatives to correct this behaviour. I also accept the Landlord's evidence that the Tenant has not corrected his behaviour, and in fact, continues to yell and swear at other renters even after receiving the Notice.

The Tenant did not deny the Landlord's allegations, and specifically admitted each of them. He submitted that he is not responsible for his behaviour due to a medical condition which he claims prevents him from having control of or knowledge of his behaviour immediately upon waking. He failed to provide any medical evidence to support this claim.

I do not accept the Tenant's testimony with respect to his allegation that he was threatened by one of the Landlord's employees, R.S. I prefer R.S.'s testimony in this regard as I found R.S. to be forthright and consistent in his testimony.

The Tenant accepted the rental unit knowing it was in close proximity to the shared laundry room, and in doing so accepted the risk of being impacted by other occupants using this facility. I find that the Landlord has taken reasonable steps to address concerns raised by the Tenant, including posting signs on the laundry room door and restricting use of the laundry room to reasonable hours.

In response to my question as to whether the Tenant had requested the ability to move to another unit, the Tenant stated that it was the Landlord's responsibility to propose such a solution. I find this to be an unreasonable position considering the Tenant's obvious displeasure with being so close to the laundry facilities.

In all the circumstances, I find that the Landlord has proven the Notice and has met the burden of proving that the Tenant has unreasonably disturbed others, and that he has seriously jeopardized the safety and lawful rights of other occupants of the rental building.

Therefore, I dismiss the Tenant's application to cancel the Notice. The tenancy will end in accordance with the Notice.

The Landlord is granted an Order of Possession effective two days after service. This Order must be served on the Tenant and may be filed and enforced in the B.C. Supreme Court.

### Conclusion

The Tenant's application to cancel the Notice is dismissed. The Landlord is granted an Order of Possession effective two days after service on the Tenant.

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 26, 2016

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Residential Tenancy Branch