



# 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 Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on August 24, 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 August 15, 2016 (the "1 Month Notice"); and
- an order granting recovery of the filing fee.

The Tenant attended the hearing on his own behalf. The Landlords were represented at the hearing by L.P. All parties giving evidence provided a solemn affirmation.

The Tenant testified the Notice of a Dispute Resolution Hearing, and the evidence upon which he intended to rely, was served on the Landlord by registered mail. It was received at the Residential Tenancy Branch on October 12, 2016. Although the Tenant's documentary evidence was submitted to the Residential Tenancy Branch and served on the Landlords contrary to Rule of Procedure 3.14, L.P. confirmed receipt on behalf of the Landlords and advised both parties were prepared to proceed.

The Landlords' documentary evidence was received by the Residential Tenancy Branch on October 5, 2016. According to L.P., it was served on the Tenant by registered mail. The Tenant acknowledged receipt.

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.

### Background and Evidence

The Tenant rents one side of a duplex from the Landlords. The parties agreed the month-to-month tenancy began on January 1, 2016. Rent in the amount of \$600.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$300.00 at the beginning of the tenancy.

On behalf of both Landlords, L.P. provided oral testimony in support of the 1 Month Notice. She stated the tenancy was uneventful until March 17, 2016, at which time the Tenant and his girlfriend began fighting and causing disturbances. According to L.P., the noise has been “endless”. Written submissions provided with the Landlords’ documentary evidence state: “[t]he fighting and excessive noise became a regular thing, disturbing the tenants in the other half of the duplex and the neighbours on both sides.” According to L.P., arguments continued even after the Tenant’s girlfriend moved out of the rental unit at the end of April 2016. According to L.P., there have been a number of conversations about the noise disturbances, and about potential consequences if the noise did not stop.

L.P. also testified there have been at least five police attendances at the rental unit since March 17, 2016. These were a result of noise complaints from neighbours, and calls from the Tenant or his girlfriend. The most recent occurrence was on August 9, 2016, when someone allegedly tried to break into the Tenant’s rental unit. According to L.P., the police officers and the Tenant advised her that a rifle was seized during one attendance, and a knife was involved in another. The Landlords’ written submissions state: “The tenants in the other side are afraid of [the Tenant] and the cops have been there many times. On one occasion there was a gun involved on another a knife. Just goes on and on.” The Landlord and the tenants in the adjoining unit are concerned for their safety.

The Tenant denied the suggestion that a rifle or a knife were involved during police attendances. However, he acknowledged in his written submissions that police were called as a result of arguments between the Tenant and his girlfriend. The Tenant’s written submissions state: “Yes we had a few disagreements and discussions where one of us had to call the police because we are both pretty stubborn where sometime we need help to solve an issue.” However, he stated there has been no fighting since his girlfriend moved out of the rental unit at the end of April 2016.

Finally, L.P. testified the Tenant called frequently and sent text messages often. The Landlords’ written submissions state: “[The Tenant] was always phoning or coming to

my house to complain about her. He would text or phone me at all hours of the night and day then the next day tell me the same thing.” In the Tenant’s written submissions, he denies sending text messages to L.P. and states that any calls were to reassure L.P. the relationship with his girlfriend was over.

As a result of the above disturbances described by L.P., the Landlords issued the 1 Month Notice. The Tenant’s written submissions acknowledge receipt of the 1 Month Notice on August 15, 2016.

The Tenant also complained that the walls separating the rental units are so thin he can hear the neighbour’s television or when they are using the toilet. He also complained that the tenant in the adjoining unit, and his friends, often park in the Tenant’s driveway.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause. In this case, the Landlord wishes to end the tenancy on the bases that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, and that the Tenant put the Landlord’s property at significant risk. The burden is on the Landlord to provide evidence in support of ending the tenancy.

On behalf of the Landlords, L.P. provided affirmed oral testimony and written submissions alleging arguments between the Tenant and his girlfriend disturbed the tenants in the other half of the duplex. L.P. also stated there have been a number of police attendances as a result of fighting, and for other reasons. Finally, L.P. indicated the Tenant called and texted her regularly about various issues.

The Tenant denied many of the Landlord’s allegations but acknowledged police attended on a number of occasions. In his written submissions, he acknowledged that he and his girlfriend sometimes required assistance with resolving disputes. He denied the involvement of weapons during police attendances.

I find the Tenant has unreasonably disturbed another occupant and the Landlord. Accordingly, the Tenant’s Application is dismissed and the 1 Month Notice is upheld. When a tenant’s application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an order of possession in favour of the Landlord. 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 two (2) days after service on the Tenant.

As the Tenant has not been successful, I decline to grant the Tenant recovery of the filing fee.

### Conclusion

The Tenant's Application is dismissed and the 1 Month Notice upheld.

Pursuant to section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. 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: October 19, 2016

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Residential Tenancy Branch