



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47.

Both parties were represented at the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant GG (the "tenant") confirmed he represented both co-tenants. The personal landlord was represented by her agent JE (the "landlord").

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 1 Month Notice, the tenants' application for dispute resolution or either party's evidentiary materials. The parties confirmed receipt of one another's materials. In accordance with sections 88 and 89 of the Act, I find that the tenants were duly served with the landlord's 1 Month Notice and evidence and the landlord was duly served with the tenants' application for dispute resolution package.

### Issue(s) to be Decided

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

### Background and Evidence

The parties agreed on the following facts. This tenancy began in November, 2015. The current monthly rent is \$797.50 payable on the first of each month. A security deposit of \$295.00 was paid by the tenants at the start of the tenancy and is still held by the landlord.

The landlord testified that there have been numerous noise complaints about the tenants from various other occupants of the rental building. The landlord submitted into written evidence copies of emails from other occupants complaining about the volume,

frequency and late hour of noise originating in the rental unit. The landlord testified that on several occasions the tenant has been warned both verbally and in writing about the noise. The landlord also testified that there have been instances where the tenant or his guests have had loud altercations and fights causing the other residents to be fearful.

The landlord testified that the tenant has numerous guests attend the rental unit for various lengths of time. The landlord said that some guests may stay overnight while others may stay shorter or longer. The landlord said that the guests have been seen with suitcases, bags and large amounts of personal belongings leading the landlord to believe they are staying for a considerable length of time. The landlord testified that the tenants' guests store many items in the common hallway and create an obstacle for other residents. The landlord submitted into written evidence several security photographs showing the guests and their belongings stored along the hallway.

The tenant disputed that noise levels have been bothersome to the other residents. He testified that he mostly keeps to himself and only occasionally has some close friends over to socialize. The tenant said that the altercation between his guests was an isolated incident that occurred when the guests were leaving the rental building. The tenant said that he and his roommate are the only residents of the rental unit and other individuals are guests for a brief period of time. The tenant denied that there are too many guests or that they block the common area with their possessions.

The landlord testified that on several occasions the tenant has broken into the rental unit or has broken into other units in the rental building through the window. The landlord testified that the tenant was warned against doing this, and submitted into written evidence formal warnings issued to the tenant for this behaviour. The tenant testified that he has only done this a few times as he was locked out and had no other means of entering his rental unit. The landlord testified that breaking into the rental unit through the window causes other residents concern, is unsafe and may cause damage to the rental building and puts the building at risk of break-ins.

The tenant testified that the entrance through the windows have only been done on a few occasions as required. The tenant testified that on one occasion he was doing so at the behest of a neighbor who was locked out of their own rental unit. The tenant said that it is easy to enter and causes no structural damage to the rental unit.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice.

The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice. In the matter at hand the landlord must demonstrate that the tenant has allowed an unreasonable number of occupants in the unit, significantly interfered with or unreasonably disturbed another occupant or the landlord, or adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant.

Considered in its totality, I find the evidence presented by the landlord to credibly show that the tenant has significantly disturbed the other occupants of the rental building and adversely affected their quiet enjoyment, safety and security. I accept the landlord's evidence that there have been multiple noise complaints from other residents regarding the tenant. I accept the evidence of the parties that on more than one occasion the tenant broke into a rental suite in the building and was issued written warnings advising that he refrain from doing so in the future. I accept the landlord's evidence that the tenant has had numerous guests attending the rental unit and staying for various lengths of time.

I find the evidence given by the landlord to be consistent, forthright and compelling. I do not find the tenant's explanation of the noise level, the number of guests or the reasons for breaking into the rental units in the building to be convincing or to be adequate justification for the disturbances.

I find that the landlord has sufficiently shown on a balance of probabilities that the tenant has engaged in actions that have disturbed the other occupants and adversely affected their quiet enjoyment. Accordingly, I find that the landlord has shown on a balance that there is cause to end this tenancy and dismiss the tenants' application.

Section 55(1) of the *Act* reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of*

*possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

The landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice. The notice clearly provides the reasons for ending the tenancy.

As I have dismissed the tenants' application to dispute the 1 Month Notice, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the 1 Month Notice has passed, I issue a 2 day Order of Possession

#### Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or any occupant 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.

The tenants' 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: July 20, 2017

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Residential Tenancy Branch