



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ACTIVE SUPPORT AGAINST POVERTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC MT

### Introduction

The tenant submitted an Application for Dispute Resolution (the “Application”) under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause dated June 7, 2017, the (“1 Month Notice”) and for more time to make an application to cancel a notice to end tenancy.

Two agents for the landlord (the “agents”), the tenant and a tenant advocate attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me.

The parties confirmed that they received evidence from the other party prior to the hearing and that they had the opportunity to review that evidence. I find the parties were sufficiently served in accordance with the *Act*.

### Preliminary and Procedural Matter

Although the tenant requested more time to make an application to cancel a notice to end tenancy, I find the request to be moot as the tenant applied within the required timeline as the 10<sup>th</sup> day fell on a weekend and section 25 of the *Interpretation Act* would provide the tenant until the next business day to submit their application which the tenant did on June 19, 2017. As a result, I will not consider the tenant’s request for more time as it is moot and was filed on time.

### Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on June 14, 2010.

The tenant claims that he could not recall the date he was served with the 10 Day Notice. The agents affirmed that the tenant was served personally at the rental unit on June 7, 2017 with the 1 Month Notice which alleges four causes as follows:

1. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
3. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.
4. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant of the landlord.

The agents referred digital evidence submitted in evidence which the tenant and advocate confirmed they were able to view. In the video evidence, the tenant is seen slamming his hand against the front desk several times. The agents referred to an incident report which indicates that the police were contacted by the staff due to the tenant swearing and stating in part “do you want me to snap?” and “I will be back too”. The tenant claims he could not remember swearing or saying those things to the staff involved and that some of those things “didn’t sound like something I would say”. The agents claimed the police attended and after interviewing the tenant and staff they decided not to lay charges against the tenant.

In a different video, the tenant is seen pushing a female from outside an elevator to inside the elevator with force. The tenant claims that the entire incident is not on video and that he was kicked inside the elevator by the female and that their altercation continued outside of the elevator.

The agents referred to another video of a parking lot however the video was difficult to see any specific details as claimed by the agents.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant disputed the 1 Month Notice within the 10 day timeline provided for under the *Act* the onus of proof then reverts to the landlord to prove that the 1 Month Notice is valid. The landlord is only required to prove one of the listed causes for the 1 Month Notice to be valid.

In the matter before me, I find the agent's testimony and supporting documentary evidence is consistent and compelling. On the contrary, I find the tenant's testimony to be vague as the tenant stated he "doesn't remember" that what is being alleged "doesn't sound like something I would say". Therefore, I prefer the testimony of the agents over that of the tenant. I find that video evidence is compelling and that the tenant has acted both aggressively towards staff and violently against another tenant. I also accept that the tenant has more likely than not threatened staff. Therefore, I am satisfied that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Given the above, I dismiss the tenant's Application to cancel the 1 Month Notice as I find the 1 Month Notice is valid. The effective vacancy date listed on the 1 Month Notice was July 31, 2017 and the agents confirmed that money was paid for use and occupancy for August 2017. As a result and pursuant to section 55 of the *Act*, I grant the landlord an order of possession effective **August 31, 2017 at 1:00 p.m.**

I do not find it necessary to consider the other causes listed on the 1 Month Notice as a result of the above.

#### Conclusion

The tenant's Application is dismissed.

I uphold the 1 Month Notice issued by the landlord. I find the tenancy ended on July 31, 2017 which was the effective date of the 1 Month Notice and that the tenant has paid for use and occupancy for August 2017. As a result, the order of possession is effective August 31, 2017 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 23, 2017

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Residential Tenancy Branch