



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, received at the Residential Tenancy Branch on July 10, 2017 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated July 4, 2017 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant attended the hearing on her own behalf. The Landlord attended the hearing on his own behalf and was accompanied by a witness, M.M. All in attendance provided a solemn affirmation at the outset of the hearing.

The Tenant testified that the Application package was served on the Landlord, in person, on July 10, 2017. The Landlord acknowledged receipt on that date.

The Landlord submitted documentary evidence in response to the Application. The Landlord testified it was served on the Tenant, in person, on September 18, 2017 – two days before the hearing. Although the Tenant acknowledged receipt, she indicated she has not had an opportunity to consider it. As the Landlord's documentary evidence was not submitted to the Residential Tenancy Branch or served on the Tenant in accordance with the Rules of Procedure, and the Tenant did not have an opportunity to consider it, I have declined to consider it further in this Decision.

No other issues were raised with respect to service or receipt of the above documents. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. 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 parties confirmed the tenancy began on August 1, 2015. Rent in the amount of \$900.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$450.00 at the beginning of the tenancy, which the Landlord holds.

The Landlord issued the One Month Notice on July 4, 2017. The Tenant's Application acknowledged receipt on that date. The One Month Notice was issued on the bases that the Tenant or a person permitted on the property by the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord, or jeopardized a lawful right or interest of another occupant or the Landlord. Specifically, the Landlord, who does not live on-site, testified he has received numerous complaints from adjacent units about noise and marijuana smoke emanating from the Tenant's rental unit. In a recent incident on June 21, 2017, police attended due to noise issues continuing into the early hours of the morning.

A tenant, M.M. provided oral testimony on behalf of the Landlord. She stated she has complained to the Landlord about the smell of marijuana by text eight times this year, and has made other verbal complaints. In addition, M.M. testified that she has made four noise complaints by text to the Landlord, as well as other verbal complaints. The noise disturbances include partying, music, and screaming on weeknights and into the early hours of the morning.

In reply, the Tenant testified the complaints have all been from M.M. and a friend of M.M.'s husband. She indicated that she has two children of her own, and that she stopped smoking marijuana after a previous complaint; she now uses edibles. The Tenant also testified that she and a friend tried to talk to M.M. but were rebuffed. The Tenant feels that noise is part of living in an apartment, and that things have been taken out of proportion.

### 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 the circumstances described therein. In this case, the Landlord issued the One Month Notice on the bases that the Tenant or a person permitted on the property by the

Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord, or jeopardized a lawful right or interest of another occupant or the Landlord. Specifically, the Landlord testified to numerous complaints about the smell of marijuana and noise emanating from the Tenant's rental unit. The Landlord's testimony was supported by that of another tenant, M.M., who has herself made numerous text and verbal complaints. The Tenant did not deny the allegations of marijuana smoke and noise coming from her rental unit. Rather, she testified that she uses edibles and that things have been taken out of proportion.

In this case, I find that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord by allowing marijuana smoke and noise to emanate from her rental unit into adjacent units. Accordingly, the Tenant's Application to cancel the One Month Notice is dismissed.

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 One 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 on September 30, 2017, at 1:00 p.m.

### Conclusion

The Tenant's Application is dismissed. Pursuant to section 55 of the *Act*, the Landlord is granted an order of possession, which will be effective on September 30, 2017, at 1:00 p.m. 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: September 20, 2017

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Residential Tenancy Branch