



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cheshire Homes Society of BC  
Bayside Property Services Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

CNC; FF

### **Introduction**

This is the Tenant's Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause issued January 25, 2018 (the "Notice to End Tenancy") and to recover the cost of the filing fee from the Landlord.

The Landlord's agents KO and UK and the Tenant's agent KL provided affirmed testimony at the Hearing.

The Landlord's agent KO acknowledged receipt of the Tenant's Notice of Hearing package, by courier "at the end of March". Therefore, I find that the Landlord was sufficiently served with the Notice of Hearing package for the purposes of this Hearing.

The Tenant's agent testified that the Tenant mailed its documentary evidence to the Landlord, by registered mail, on March 29, 2018. The Landlord's agent KO acknowledged receipt of the Tenant's documentary evidence.

The Landlord's agent KO testified that she mailed the Landlord's documentary evidence to the Tenant, by registered mail, on March 22, 2018. She provided the tracking numbers for the registered documents.

Based on the parties' affirmed testimony, I am satisfied that the parties duly exchanged their documentary evidence.

**Issue(s) to be Decided**

Should the Notice to End Tenancy be cancelled?

**Background and Evidence**

The Tenant provided a tenancy agreement in evidence. The tenancy agreement is between a different landlord (the “Original Landlord”) and a different tenant (ER). The tenancy commenced on April 1, 2008. Rent at the beginning of the tenancy was \$950.00. A security deposit in the amount of \$475.00 was paid.

The Landlord’s agent KO testified that the Landlord BPS purchased the rental property from the Original Landlord “in 2010”. She stated that until she was provided with the Tenant’s documentary evidence, she did not have a copy of a tenancy agreement for the rental unit. She stated that her records indicate that the Tenant CH paid a security deposit in the amount of \$535.00. KO testified that current rent is \$1,270.00 per month, due on the first day of each month.

On January 25, 2018, the Landlord’s agent UK issued the Notice to End Tenancy, which was hand-delivered to an agent of the Tenant’s at its office on January 25, 2018. The Notice to End Tenancy provides:

“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 or the landlord.”

The Landlord’s agent KO stated that ER was caught on video-tape taking other occupants’ belongings from the laundry room. She stated that ER was also disturbing other occupants in the building by acting aggressively in the elevator.

The Tenant CH’s agent KL testified that an agent of the Tenant now accompanies ER when he goes to do his laundry. She stated that there have been no previous complaints about ER’s behaviour in the elevator.

The Tenant CH is an organization that supports people with disabilities to achieve their optimal level of independence without the necessity of entering “assisted living” accommodations. CH rents a number of rental units in the rental property from the Landlord and sublets them to its clients, who are subsidized by CH. EB pays a portion

of the monthly rent to CH, who pays the total amount of rent to the Landlord. It is unclear as to how or when the Tenant CH became the tenant under the tenancy agreement instead of ER, but the parties agree that the Tenant is CH and not ER.

### **Analysis**

The Tenant's Application made February 2, 2018, named the Landlord's agent UK as the Landlord. By consent of the parties, the Tenant's Application was amended to include the corporate Landlord BPS.

I find that there is insufficient evidence that CH engaged in illegal activity. It may be that the Landlord intended to allege that a person permitted on the property by the CH (in this case ER) interfered with or unreasonably disturbed another occupant, but that is not what is alleged on the Notice to End Tenancy. I find that the Notice to End Tenancy is not a valid notice to end the tenancy and it is cancelled.

The parties had discussions with respect to signing a new tenancy agreement. The parties agreed that they would sign a new tenancy agreement. They agreed that the terms of the new tenancy agreement would be:

- The Tenant is CH;
- The Landlord is BPS;
- Monthly rent is \$1,270.00 due on the first day of each month;
- A security deposit in the amount of \$535.00 was paid on April 2, 2008;
- The terms of the tenancy agreement are the standard terms as set out in the regulations, together with two other terms: no pets are allowed in the building; and smoking is not allowed in the building.

The parties understand and agree that in the future, the Tenant may not sublet rental units in the rental property without the express written consent of the Landlord, which consent may not unreasonably be withheld.

The Landlord has a Hearing scheduled for June 6, 2018, seeking an order of possession with respect to the same Notice to End Tenancy. The Notice to End Tenancy has been cancelled and therefore the parties were advised that the June 6<sup>th</sup> Hearing is cancelled.

The Tenant was successful in cancelling the Notice to End Tenancy and I find that it is entitled to recover the cost of the \$100.00 filing fee from the Landlord. Pursuant to the

provisions of Section 72 of the Act, the Tenant may deduct \$100.00 from future rent due to the Landlord.

### **Conclusion**

The Notice to End Tenancy for Cause issued January 25, 2018, is cancelled. The tenancy will continue until it is ended in accordance with the provisions of the Act.

The Tenant may deduct \$100.00 from future rent due to the Landlord, representing recovery of the cost of the filing fee.

The Landlord's Application for Dispute Resolution seeking an order of possession with respect to the Notice to End Tenancy, scheduled to be heard on June 6, 2018, at 9:00 a.m. is cancelled.

BY CONSENT, the parties will sign a new tenancy agreement, the terms of which are set out above.

The parties agree that in the future, the Tenant may not sublet rental units in the rental property without the express written consent of the Landlord, which consent may not unreasonably be withheld.

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: April 11, 2018

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Residential Tenancy Branch