



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

On March 29, 2018, the Tenant applied for a dispute resolution proceeding seeking to cancel the Landlord's One Month Notice to End Tenancy for Cause pursuant to section 47 of the Act.

At the start of the hearing, I confirmed that the following people appeared for the Landlord: C.W. as the building caretaker, C.I. as the Property Manager, and R.L. as a building maintenance worker. The Tenant attended the hearing on his own behalf and was assisted by J.G., an advocate. All in attendance provided a solemn affirmation.

Before commencing provision of testimony by both parties, J.G. suggested a settlement to this dispute. However, C.W. referred to a previous dispute resolution hearing (the file number is on the cover page of this decision for ease of reference) and would not entertain discussing a settlement. C.I. also confirmed that a settlement was not acceptable. As such, the hearing commenced as scheduled.

Both parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. However, of note, in addition to the written submission package, C.I. served the Tenant with evidence containing two videos and three voicemails that the Tenant was unable to access or view. As such, under Rule 3.10.5 of the Rules of Procedure, I have not considered this digital evidence.

I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the tenant entitled to have the Landlord's One Month Notice to End Tenancy for Cause dismissed?

Background and Evidence

This month-to-month tenancy commenced on August 1, 2012. As this is subsidized housing, the monthly rent was set at \$778.00 at the beginning of the tenancy, payable on the first day of each month. The Landlord continues to hold the Tenant's \$389.00 security deposit.

The parties agreed that the One Month Notice to End Tenancy for Cause (the "Notice") was posted to the Tenant's door on March 22, 2018. The reasons cited in the Notice were:

- The Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- The Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.

C.W. addressed the first reason on the Notice and cited a letter dated February 15, 2018 in his written submissions, from a Canadian construction company, to support his reasoning for issuing the Notice. He testified that this company was hired to make repairs at the rental unit property. He submitted that on February 14, 2018, the Tenant verbally berated employees of this contracting company. He then drew my attention to a second letter dated July 25, 2017 where another tenant ("F.D.") of the rental complex knocked on the Tenant's door as he was inquiring about a noise that he had heard. F.D. alleged that the Tenant yelled profanities at him and slammed the door in his face. C.W. emphasized that the tone of the Tenant's behaviour and language is consistently abusive and profane.

The Tenant submitted that he did not use profanity in his interactions with the contractors, that he did not exhibit any threatening or violent behaviour, and that the foreman acknowledged, in a second conversation, that he did not forward any complaints to the management of the building. The Tenant stated he had one conversation with the contractor about the curtain rods that were taken down in his

rental unit. Apparently, the contractor informed the Tenant it was not their responsibility to re-install them. The Tenant stated that he would have to tack them up as a solution.

With respect to his interaction with F.D., the Tenant provided testimony, unrelated to the issuance of the Notice, about F.D. having guests over constantly that drink, party, and spill over onto the Tenant's patio. He has repeatedly asked F.D. to warn his guests from occupying the Tenant's patio space, and he stated that another tenant of the building has asked him to join a "campaign" against F.D. Regarding the night in question that F.D.'s letter pertained to, the Tenant acknowledged that he was responsible for the noise that was caused on the night of July 24, 2017, that some boxes in his rental unit fell and caused the noise, and that the noise lasted approximately five seconds. The Tenant acknowledged that when F.D. came over to inquire about the noise, he told F.D. to "get the hell off the patio", and then he slammed the door.

In response, C.W. stated that he has not received any complaints from any tenants about the behaviour of F.D. He then reiterated that the Tenant's noted behaviours are consistent throughout the provided statements.

C.W. then addressed the second reason on the Notice and the Landlord is alleging that the Tenant vandalised a paper bulletin posted in the common area of the rental building. The agents for the Landlord referred to Section 430 of the *Criminal Code of Canada*. C.W. stated that he understood that the paper bulletins are not costly, but they are posted to protect and inform the tenants of the housing complex. He submitted that if the tenants are allowed to change these bulletins or dictate the Landlord's practices, this undermines the Landlord's ability to communicate and puts all the tenants in jeopardy.

The Tenant's Agent J.G. submitted that the Tenant admitted to defacing the bulletins because he was upset, in part due to his life-threatening condition. She stated that the Tenant admits that he was wrong and this was done in the heat of the moment.

The Tenant submitted that he left his apartment one day and R.L. was in the hallway staring at him. He alleged that R.L. said "What are you looking at?" and threatened the Tenant stating that "C.W. was going to get you." The Tenant stated that locking the communal washrooms is "something out of a sitcom" and that citing stolen property as the reason for preventing access to these facilities is not appropriate. However, he admitted to writing on the washroom bulletins, but he acknowledged that this was bad judgement on his part and he apologized for his actions.

R.L. stated that he has not spoken to the Tenant since last year and he denies that this conversation or argument occurred.

C.I. reiterated that there was a previous hearing where a settlement was agreed upon. He specifically referred to point five in the settlement that outlined that the Tenant and Landlord would “both agree to have a good faith discussion and attempt to resolve any issues before the landlord issues any further notices to end tenancy to the tenant.” He stated that as per the written submissions, he attempted to contact the Tenant multiple times unsuccessfully by telephone to discuss recent incidents. He then posted four, separate letters on the Tenant’s door requesting to meet at a specified time, or at a time of the Tenant’s choosing, to discuss recent incidents involving the Tenant on the property. However, the Tenant responded to these letters by leaving voicemails with the Landlord stating that he would not meet unless advised of the reasons for the meeting. C.I. stated that the rental complex is independent housing and tenants should be able to take care of themselves.

C.W. stated that the Tenant’s comments on his interaction with R.L are unfounded and should not be considered. He stated that any concerns that a tenant has should be made in writing to the management of the complex. He also submitted that the Tenant is not aware of the theft issues regarding the communal washrooms, that the Uptown Kiwanis Senior Citizens Housing Society is a not for profit organization, that communal areas need to be treated with respect, and that the tenants in the complex are not treated like children.

J.G. submitted that the Tenant spoke with a lawyer recently who advised him to speak with the Landlord if incidents are raised even if reasons are not provided, to which the Tenant understood and agreed. The Tenant also promised to meet with her before meeting with the Landlord when issues arise and the Tenant understands that this is not to be used as a stall tactic. He further understands that he must follow the rules of the settlement agreement and meet with the Landlord.

The Tenant acknowledged his mistakes and expressed his remorse. Further, he stated that he keeps a low profile in the building, that he is generally out of the building for the majority of every day, and that on Monday, he will be in the hospital for treatment and will be on a “short leash”.

### Analysis

I find that the crux of the issue in this hearing was whether the Tenant's behaviour and admitted actions breached the conditions of the settlement agreement dated November 29, 2016, and whether this breach warrants justification of the Notice. When comparing the previous hearing and settlement agreement with the circumstances here, I find there is a pattern of similar behaviours by the Tenant.

When examining the evidence before me, while the Tenant disputes some of the allegations levied in the Landlord's evidence, he also acknowledges, admits, and expressed remorse for other actions and behaviours. One issue that the Tenant takes exception to is his use of profanity and abusive language directed at the contractors hired to make repairs to the housing complex. I do not find it reasonable, or consistent with common sense, that a person would document a complaint with the housing society had such a volatile exchange not occurred as alleged. Based on a pattern of the Tenant's behaviour that has been established, along with his admission of certain wrongdoings, I am satisfied that the incident with the contractors was more likely than not portrayed accurately by the Landlord.

As such, I accept the evidence that the Tenant behaved inappropriately when engaging with the contractors, as well as the undisputed evidence of his aggressive behaviour involving F.D., and the undisputed evidence that he wrote on the bulletins posted by the Landlord. Furthermore, it is uncontested that C.I. made four attempts, in writing between March 2 to March 6, 2018, to coordinate a time to meet and discuss issues as per the settlement agreement. However, as confirmed by the Tenant, he admitted to avoiding meeting with the Landlord until he was advised of the reason for the meeting. I find this behaviour does not comply with the "good faith discussion" spirit of the settlement agreement, which the Tenant also acknowledged.

Based on the evidence before me, it appears that the Landlord has had many issues with this tenancy and has taken documented steps to attempt to discuss these issues with the Tenant, as per the agreed upon conditions of the settlement agreement. As the agreement stipulates that these attempts to resolve any issues must be made "before the landlord issues any further notices to end tenancy to the tenant", and as the Tenant has knowingly avoided such meetings, I am satisfied that the failure by the Tenant to comply with the terms of this settlement agreement provides a basis and justification for the Landlord ending this tenancy. For these reasons, I dismiss the Tenant's Application, I uphold the Notice, and I find the Landlord is entitled to an Order of Possession. During the hearing, C.W. stated that should an Order of Possession be awarded, the Landlord would accept that the Tenant could stay for the month of May. As such, the Order of Possession will be effective at **1:00 PM on May 31, 2018.**

Conclusion

I dismiss the Tenant's Application and uphold the Notice. I grant an Order of Possession to the Landlord effective at **1:00 PM on May 31, 2018 after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed 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: May 4, 2018

---

Residential Tenancy Branch