



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SOCIETY FOR CHRISTIAN CARE OF THE ELDERLY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

The tenant applies to cancel a one month Notice to End Tenancy received March 28, 2018. The Notice alleges that the tenant has a) significantly interfered with or unreasonably disturbed other occupants or the landlord or b) has engaged in conduct that seriously jeopardizes the health or safety of another occupant or the landlord.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the relevant evidence presented during this hearing show on a balance of probabilities that the tenant has given cause for the Notice under either of the two grounds cited above?

### Background and Evidence

The landlord is a non-profit society providing housing for the elderly. The fourteen storey building housing the tenant's rental unit is composed of 216 units. The tenancy started in October 2005. The current monthly rent is \$599.00 due on the first of each month. The landlord holds a \$225.00 security deposit.

The landlord's representative Ms. M. refers to occasional incidents and complaints involving the tenant during the years 2012, 2013 and 2016, however I consider evidence of such age to be of virtually no assistance in determining this matter.

Of relevance is the series of allegations occurring in 2017 and 2018. According to Ms. M. the landlord has received a great number of complaints about harassment and abuse of other tenants at the hands of this tenant over this time.

In May 2017 the landlord received a written complaint from Mr. A.S., a neighbour of the tenant on the same floor. It is not clear what the complaint was about though Mr. A.S. in his later writings referred to it as an “extreme incident.”

Also in May 2017 the landlord received a letter from another resident, Ms. D.M. regarding the tenant’s “harassment” of a garden club. The building residents have acquired a portion of the common property for personal gardens. They have formed a club referred to as “TAG.” Ms. D.M. is 76 years old and has been living in the building since the year 2000. Ms. D.M.’s letter requests the landlord to remove the tenant from the building or from the garden. It is signed by eleven TAG member residents of the building.

In August 2017 it appears that TAG held a vote and revoked the tenant’s membership in the club. TAG requested that she clear her garden area by the new year.

On September 19, 2017 the landlord received a letter from Mr. A.S. citing three incidents involving the tenant screaming obscenities at other tenants from her balcony and requesting the landlord take steps to stop the disturbance the tenant causes.

On September 25, 2017 the landlord received another letter from Mr. A.S. voicing his concerns about harassment by the tenant and the safety of others in the building.

On October 6, 2017 the landlord received a third letter from Mr. A.S. listing incidents involving the tenant.

On October 16, 2017 the landlord issued a “final warning” to the tenant about complaints that she is engaging in harassment and abusive behaviour with other tenants, that the incidents have been witnessed by other tenants and by staff and are “very excessive and out of control” and that continuation of the behaviour will result in a one month Notice to end her tenancy.

On February 28, 2018, Mr. A.M., the building manager, received a call from a tenant who reported she had seen the tenant destroying Mr. A.S.’s garden plot.

The tenant had not deconstructed and removed her own garden by the new year, as TAG has requested. In February TAG members took the tenant's garden apart and place its remains at the side of the garden.

The tenant did not removed her garden remains and so TAG took it upon itself to arrange for a truck and, on March 5, 2018, began loading the truck wit the tenant's garden remains for the purpose of disposal.

According Mr. A.S., who was there, the tenant arrived in a "furious" state, telling him he was a "communist." She attempted to remove things from the truck and to prevent people from loading the truck with her garden items. She was on the truck holding some sticks which he says she jabbed into his side, where he had had recent gallbladder surgery. According to Mr. A.S., the tenant then jumped off the truck and charged a 78 year old member of TAG, knocking him to the ground. The police had been called. They arrived and, according to Mr. A.S., forcibly restrained the tenant. No charges were laid.

Mr. T., the 78 year old member of TAG, submitted a signed statement that the tenant charged him "like bull" and knocked him down.

Ms. D.M. provided a signed statement confirming that she was there and witnessed the tenant charge Mr. T, knocking him down and saw her jab Mr. A.S. with sticks.

Ms. B.C., apparently an employee of the landlord, provided a signed statement that she had been in the office when someone called to her to call the police. She went outside to see Mr. T. falling to the ground.

In response, the tenant testifies that she feels she has been deprived of her voice throughout these incidents and has never been given an opportunity to tell her side. She feels that TAG was holding secret meetings to discuss her.

She states that all the accusations made by the landlord at this hearing are not true. She says she is not a violent person. She did not pull plants out of anyone's garden.

In the tenant's view, a former resident manager who still lives there, Mr. R.J. is the ring leader of a plot against her. He has a network of informers and has been watching her for five years.

She says that contrary to the written assertions of her neighbour Mr. A.S., it is he that yells at her. She says that one night in the garden he sprayed her with a hose, punched her in the chest and tried to kick her.

She thinks that the landlord is being manipulated by the tenants. The landlord never responds to her letters, she says.

She is also concerned that a coffee club in the building talks about her.

She does not understand why the TAG members turned on her.

Regarding the March 5 incident she says it was only she who ended up on the ground and that she was hit with a wooden batten.

The tenant testifies that some of the other tenants in the building have adopted a strategy of “organized harassment” against her. The tenant was asked why the other tenants were ganging up on her. In her view maybe they may have been offered something in return or they believe she is cruel.

### Analysis

The ending of a tenancy is a very serious matter. A landlord seeking to evict a tenant for her conduct will be expected to provide clear and cogent evidence of that conduct.

The advocate for the tenant properly points out that the landlord failed to present any of the complaining tenants so that they might have been questioned about their evidence.

Had the evidence regarding the tenant's conduct been from a single occupant or two who did not attend to give direct testimony, I would have little difficulty disposing of this matter in the tenant's favour.

However, there is an abundance of evidence corroborating a history of the tenant being verbally abusive to other tenants and, on March 5, 2018, physically aggressive. The eleven signatures on the TAG letter of May 31, 2017 confirm that the tenant's general conduct has been such that it was so unreasonably disturbing to them, a group of elderly people, that they removed her from their organization.

The tenant's allegation of a collective plot against her is not proved by the evidence.

The incident of March 5, 2018 is confirmed by three people to have been an incident of the tenant causing disruption and using physical force.

I find that the tenant's conduct has significantly interfered with and unreasonable disturbed other occupants in the rental complex and caused at least three of them: Mr. A.S., Ms. D.M. and Mr. T. to believe that their physical well being was in jeopardy.

### Conclusion

The tenant's application must be dismissed. The Notice to End Tenancy was a proper and justified Notice. It has resulted in this tenancy coming to an end on April 30, 2018. The landlord is entitled to an order of possession pursuant to s. 55 of the *Residential Tenancy Act*.

By agreement, the order of possession will be effective July 31, 2018.

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 06, 2018

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Residential Tenancy Branch