



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MOUNT BENSON SENIOR SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

An agent for the Landlord (the “Landlord”) was present for the duration of the teleconference hearing, as was the Tenant. Both parties were affirmed to be truthful in their testimony.

The Tenant testified that he sent the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) to the Landlord by registered mail. The Landlord confirmed receipt of the Notice of Hearing on May 8, 2018. As the Tenant only submitted the One Month Notice as evidence, he did not serve a copy of his evidence to the Landlord. The Landlord testified that they served a copy of their evidence to the Tenant on May 10, 2018 by posting it on his door. The Tenant confirmed receipt of the Landlord’s evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Should the One Month Notice to End Tenancy be set aside?

### Background and Evidence

The Landlord and Tenant were in agreement as to the details of the tenancy. The tenancy began on June 1, 2017 and monthly rent is \$350.00 plus \$30.00 for cable, for a total monthly amount of \$380.00 due on the first day of the month. The Tenant previously lived in a different building within the same organization that the Landlord oversees, but signed a new tenancy agreement when he moved into his current rental unit on June 1, 2017.

The Landlord testified that they have had ongoing concerns regarding the Tenant's behaviour in the building and the disturbance to the staff and other residents. The Landlord testified that a warning letter was first sent to the Tenant in June 2017 regarding complaints they had received about the Tenant disturbing other residents when knocking on their door and asking to borrow money.

The Landlord testified that on January 15, 2018 another warning letter was sent to the Tenant after receiving further complaints regarding the Tenant knocking on doors and asking other renters for money. The Landlord submitted the letter in evidence and in the letter the Tenant was advised that if the Landlord received further complaints, the tenancy would be ended.

The Landlord testified that on February 22, 2018, another letter was sent to the Tenant advising that this was the last warning and if any further complaints were received regarding the disturbance of other residents, the tenancy would be ended. The Landlord submitted the letter in evidence and in the letter, the breach of a material term of the tenancy agreement was noted.

The Landlord testified that a final letter was sent to the Tenant on April 19, 2018. The letter was submitted in evidence by the Landlord and outlined two arguments or confrontations that occurred between the Tenant and a neighbour on April 5 and April 17, 2018.

The letter dated April 19, 2018 also mentioned that the Landlord had reason to believe that copies of the Tenant's keys had been provided to people who did not reside in the building. The letter stated that a meeting was scheduled between the Landlord and the Tenant for April 24, 2018 to discuss the Landlord's concerns and the future of the tenancy. The letter also noted that the Tenant was welcome to bring a family member or support person to the meeting.

The Landlord testified that the Tenant did not attend the meeting and thus a One Month Notice was posted on his door on April 24, 2018. The One Month Notice stated the following as cause to end the tenancy:

- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The Landlord also submitted in evidence several incident reports as well as letters/notes from other residents complaining about disturbances they report were caused by the Tenant. One complaint from a resident in the building notes that the Tenant knocked on the door at midnight, while another notes that he knocked on the door at 8:45 pm.

The tenancy agreement was submitted in evidence by the Landlord. The Landlord testified that the agreement has two material terms that the Tenant has breached. The first statement notes that a tenant must not make copies of keys without prior approval from the landlord. The second statement is that a tenant must not act in a way that causes unreasonable noise or disturbance to the staff or other residents of the building and that doing so could lead to the landlord ending the tenancy.

The Tenant testified that he is not in agreement as to the Landlord's account of what has occurred. He submitted that he approached one staff member and asked to borrow money on one occasion. He also stated that he has asked to borrow money from one neighbour on two occasions due to needing money urgently, such as when his car ran out of gas and was left on the road. He testified that he always paid people back when he borrowed money.

The Tenant testified that he has never made copies of his keys for anyone. He stated that his friends sometimes use his key, such as after he had surgery and he passed his keys off his balcony to a friend who was coming into the rental unit to help him.

The Tenant testified that he received the warning letters from the Landlord, including the letter dated April 19, 2018 that invited him to have a meeting to discuss the concerns and come to a possible resolution. The Tenant submitted that he did not attend the meeting on April 24, 2018 as he was not aware that he could bring someone to support him at the meeting and was worried that he would get ambushed.

The Tenant testified that due to the concerns noted in the letters of warning regarding him asking other residents for money, he has not done this in months, other than asking to borrow money from a staff member who is not a resident.

The Tenant testified that he did have one confrontation in the hallway with his neighbour, but that he did not slam his door and instead that the wind blew his door shut, causing it to seem as though the door had been slammed. The Tenant provided testimony that he was not arguing with his neighbour, but instead was trying to deescalate the situation.

The Tenant testified that he wants to change and is willing to work with the Landlord to set stricter guidelines for his tenancy. He would like to stay residing in the rental unit, or at least be provided with more time to locate other housing.

The Tenant confirmed receipt of the One Month Notice on the same day it was posted on his door or shortly after it was posted on April 24, 2018. He applied for Dispute Resolution to cancel the One Month Notice on May 4, 2018.

Settlement was brought up as an option for resolution of this dispute, but both parties were not able to come to a possible settlement agreement.

### Analysis

During the hearing the parties provided conflicting testimony regarding the events that led to the issuance of the One Month Notice dated April 24, 2018. Due to this, I look to the evidence and testimony of both parties to determine what occurred on a balance of probabilities. I also note that in accordance with the Rules of Procedure, when a tenant applies to cancel a notice to end tenancy, the onus is on the landlord to prove that the reasons for ending the tenancy are valid.

The Tenant testified that he asked one neighbour and one staff member to borrow money for a total of three times. The Landlord provided evidence and testimony that outlines at least six incidences of the Tenant knocking on other residents' doors asking to borrow money, as well as one time a staff member was asked for money.

Despite the conflicting testimony regarding the numbers of times the other residents of the building or a staff member were asked for money, I determine that the parties agreed that this occurred at least three times. I also find that three times is enough to

cause disturbance to others and that there is evidence that the concerns were not addressed, despite notice from the Landlord to do so.

As per Section 28 of the *Act*, a tenant has a right to quiet enjoyment. I find that having a tenant knocking on the door of the rental unit of other tenants and asking to borrow money is disruptive of this right to quiet enjoyment, particularly when this occurs at unreasonable hours of the day. The tenancy agreement states that noise and/or disturbance to others will not be tolerated and the Landlord followed through on advising the Tenant that they felt this behaviour was disruptive.

The Tenant testified that he had one confrontation with his neighbour that ended in a door accidentally being slammed. The Landlord submitted evidence of a letter of warning stating that there were two incidences of a confrontation between the Tenant and his neighbour. Based on the evidence of both parties, I accept that there was at least one incident that occurred between the Tenant and his neighbour. However, I do not find there is sufficient evidence to show that a disturbance or noise disruption occurred from the confrontation between the Tenant and his neighbour and therefore do not accept this as a reason to end the tenancy.

The Landlord provided testimony that they have reason to believe the Tenant is providing copies of his keys to others. They also testified that they had video footage of the Tenant's friends entering the property with a key, but were unable to submit this into evidence. However, I find there is insufficient evidence to establish that the Tenant provided copies of his keys to his friends or others. As such, I do not accept this as a reason to end the tenancy and instead, consider only the evidence regarding the other incidences or events that led to the issuance of the One Month Notice.

The Tenant testified that he received the letters of warning that were issued by the Landlord, as well as the letter regarding the meeting to be held on April 24, 2018. The Landlord submitted testimony that the Tenant's behaviour did not change after each warning letter and that the Tenant did not attend the meeting on April 24, 2018.

The Tenant testified that he did not attend the meeting on April 24, 2018 due to being unsure of what would occur at the meeting as well as not knowing he could bring a support person. The Landlord submitted the letter regarding the meeting in evidence which clearly states that the Tenant is welcome to bring a family member or support person to the meeting. Both parties were in agreement that the Tenant did not attend the meeting.

As per the above, I find that the Tenant was provided with many opportunities to discuss the concerns put forward by the Landlord before the issuance of the One Month Notice. Based on the evidence and testimony of both parties, I find that the Tenant did not take the opportunities presented by the Landlord to correct the concerns brought forward or come to an agreement. If the Tenant had issue with the concerns addressed on the warning letters, I do not find any evidence that shows he took steps to correct the information contained in the letters, to clarify with the Landlord, or to have a discussion that could lead to a possible resolution. After the concerns were not discussed or addressed after the letters from the Landlord and the scheduled meeting, the Landlord issued a One Month Notice.

Based on the above analysis, I have determined that the reasons listed on the One Month Notice dated April 24, 2018 are valid.

As the Tenant testified that he received the One Month Notice on his door on or around April 24, 2018 and he applied to dispute the notice on May 4, 2018, I find that he applied to dispute the One Month Notice within the ten days allowable under Section 47(4) of the *Act*. However, as I have determined that the reasons for the One Month Notice are valid in accordance with Section 47 of the *Act*, I uphold the One Month Notice dated April 24, 2018.

In reviewing the One Month Notice submitted in evidence by the Tenant, I find that it complies with Section 52 of the *Residential Tenancy Act* (the *Act*). Pursuant to Section 55 of the *Act*, if a notice to end tenancy is upheld and the notice complies with Section 52, an Order of Possession must be granted to the Landlord.

As the One Month Notice stated the effective end of tenancy date as May 31, 2018 and the hearing was scheduled only a few days before this, an Order of Possession will be granted for June 30, 2018. The Landlord must serve this Order on the Tenant as soon as possible and the Tenant must continue to pay rent as it is due in accordance with the tenancy agreement and the *Act*.

### Conclusion

I dismiss the Tenant's Application and find that I must grant an Order of Possession to the Landlord effective no later than **June 30, 2018 at 1:00 pm**. The Landlord must serve 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 31, 2018

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Residential Tenancy Branch