



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HUGH & MCKINNON REALTY LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

On April 26, 2018, the Tenants applied for a dispute resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 47 of the Act, and seeking to recover the filing fee pursuant to section 72 of the Act.

The Tenants attended the hearing on their own behalf. B.P. and J.P. attended the hearing and advised that they were agents for the Landlord. All in attendance provided a solemn affirmation.

The Tenants confirmed that they served B.P. the Notice of Hearing package in person on April 26, 2018 and he confirmed receipt of this package. Based on this testimony, and in accordance with sections 89 and 90 of the Act, I am satisfied that the Landlord was served with the Notice of Hearing package.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that that complies with the *Act*.

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

- Are the Tenants entitled to have the Notice cancelled?
- Are the Tenants entitled to recover the filing fee?

### Background and Evidence

B.P. stated that the tenancy started on July 1, 2011 as a month to month tenancy. Rent was established at an amount of \$890.00 per month, due on the first day of each month. A security deposit of \$445.00 was also paid. The Tenants confirmed these details.

All parties agree that the Notice was served to the Tenants by mail on April 17, 2018 and the Tenants confirmed that they received the Notice on April 19, 2018. The reason the Landlord served the Notice is because “a tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.”

B.P. submitted almost 20 letters and emails of complaints from other residents of the rental complex against Tenant J.H., alleging that his behaviour and actions have frightened them. Those complaints all echo the same sentiments of intimidation, uttering threats, harassment, and aggressive behaviour, continuing even after being asked to stop. In summarizing the complaints, it appears it has gotten to the point where the residents no longer feel safe and believe that his behaviour is linked to mental health issues.

Some residents attest that J.H. believes that he is being harassed and bullied by a group of residents of the rental complex. These letters were sent by the other residents of the rental complex to the Strata, and the serious nature of the allegations necessitated service of the Notice as the events were “spinning out of control”. One resident alleged that J.H. would continually harass his son even after being advised to stop; however, after one particular incident, this resident went to the Tenant’s rental unit to get J.H.’s address as he wanted to report this incident as a mental health issue. This resident took his baseball bat for protection and a verbal argument ensued where J.H. was warned to stop harassing the resident’s son. J.H. used some racially charged comments towards this resident and threatened to kill him and his son. Many of the documented issues and complaints originate from events in February 2018 but J.P. stated that these issues had been going on for some time before that and still continue. She stated that the Strata started levying fines against the rental unit due to the conduct of J.H.

Tenant A.H. submitted that they have lived there for seven years without a problem; however, on February 7, 2018, J.H. had a verbal confrontation off the property with the son of a resident of another unit in the rental complex. Later that day, A.H. stated that

this person's father swung a baseball bat and engaged in an altercation with J.H., which led to the police being called. A.H. acknowledged that J.H. used a racial epithet towards this resident during the altercation. This incident was the start of a group of residents of the rental complex filing complaints against J.H. and over the next months, the Tenants were issued fines by the Strata and eventually the Notice by the Landlord. Despite talking to B.P. and J.P., the Tenants were only aware of these issues when they received the complaint letters submitted as evidence to this file. J.P. refused to speak to the Tenants with respect to the issue of the fines. B.P. approached the Tenants to sign a Mutual Agreement to End Tenancy and if agreed upon, the fines would be rescinded; however, the Tenants did not agree to this. A.H. believes that the residents of the rental complex are fearful of J.H.'s disability as well as his physical stature. A.H. stated that J.H. suffers from Obsessive Compulsive Disorder and anxiety, that he stutters especially under stress, and that he does not possess the best social skills, so he reacts in the same manner that he is treated. However, he is not violent and will help anyone when treated respectfully. A.H. submitted their perspective on each of the complaint letters, refuting the allegations. A.H. submitted that the signatures of the complaint letters have been redacted and he cited a previous decision which detailed the importance of complainants in dispute resolution hearings and that there is no anonymity because the other party is entitled to know the case against them. Therefore, these letters would be inadmissible. A.H. stated that the stress from this situation is hard on his life and family, that they suffer from insomnia, and that this has caused them to require counselling and medication. A.H. said that in discussion with a lawyer, he was advised that this situation would be considered discrimination and a human rights violation, as well as a violation of the *Strata Property Act*.

E.H. stated that the group of residents are provoking J.H. and that he has been assessed by a medical professional but was not determined to be a danger.

J.H. testified that he went to see a resident of another rental unit and there was an altercation with a person who was provoking him. He was also accused by J.P. of stalking another resident, but he questioned why the police were not called. He alleged that J.P. is friends with the group of residents that are ganging up against him, and he just wants to be left alone.

B.P. advised that the complaint letters were redacted because the residents are genuinely afraid and this was done in an effort to protect their privacy and safety. The letters were sent to B.P. from the Strata, and the Strata president voiced similar concerns about the severity of the situation and the need to protect privacy.

## Analysis

In considering this matter, I have reviewed the Landlord's Notice to ensure that the Landlord has complied with the requirements as to the form and content of section 52 of the *Act*. I find that the Notice meets all of the requirements of section 52.

With respect to the Tenants' arguments regarding the personal information being redacted from the complaint letters, rendering this evidence inadmissible, I find it important to reference section 75 of the *Act* below.

### **Rules of evidence do not apply**

**75** The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be

- (a) necessary and appropriate, and
- (b) relevant to the dispute resolution proceeding.

Based on this section, I have the authority to determine whether to consider this evidence and then determine how much weight I place on its significance. Due to the anonymization of the complaint letters, I find it appropriate to give less weight to this evidence; however, as the Tenants have directly addressed each letter, I am satisfied that the Tenants were aware of the issues and who brought them forth. Consequently, I am satisfied that the Tenants are knowledgeable with the facts of the case brought against them, and I will consider the Landlord's evidence when rendering this decision.

When examining the submissions before me, I find that there is much conflicting evidence; however, I find that the crux of the issue in this hearing was whether J.H.'s behaviour and actions were legitimate and whether they warranted justification for the Notice. I find it important to note that in the Tenants' written submissions, they do not deny that J.H. engaged in a physical confrontation with a person on the premises where he knocked that person unconscious. As such, I accept this evidence, and I am satisfied that this behaviour exhibited by J.H. is significant, inappropriate, and would be justification to warrant the Notice being issued.

I also find it important to note that in the Tenants' evidence is a report from a medical practitioner that diagnosed J.H.'s condition as "suffering from delusion, hallucination distrust, and lack of insight. [J.H.] den[ies] all above issues and refusing proper assessment by [a] psych[sic]." Furthermore, it is not clear who authored the Tenants' written responses to the complaint letters, and there is no evidence that A.H. nor E.H. were present when many of the personal encounters involving J.H. happened. As such,

I find that this causes me to place less weight on the reliability of these submissions and find the Landlord's evidence more persuasive on the whole.

While I understand that there are opposing perspectives on how the situations and interactions have played out, I am satisfied that the undisputed volatile altercation by J.H. was enough to warrant the end of the tenancy in itself. For the above reasons, I dismiss the Tenants' Application, I uphold the Notice, and I find that the Landlord is entitled to an Order of Possession that takes effect at 1:00 p.m. on June 30, 2018.

As the Tenants were unsuccessful in their application, I decline to award recovery of the filing fee for this Application.

### Conclusion

I dismiss the Tenants' Application and uphold the Notice. I grant an Order of Possession to the Landlord effective at **1:00 PM on June 30, 2018 after service of this Order** on the Tenants. Should the Tenants 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: June 11, 2018

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Residential Tenancy Branch