



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Baptist Housing Society of BC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened in response to an application for dispute resolution by the Tenant for an order cancelling a notice to end tenancy pursuant to section 47 of the *Residential Tenancy Act* (the “Act”).

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the notice to end tenancy valid for its stated reasons?

Is the Tenant entitled to a cancellation of the notice to end tenancy?

### Background and Evidence

The following are agreed facts: The tenancy started in October 2012. Rent of \$447.00 is payable on the first day of each month. On September 5, 2018 the Landlord served the Tenant with a one month notice to end tenancy for cause (the “Notice”). The stated reasons for the Notice are as follows:

- The tenant or a person permitted on the residential property by the tenant has, inter alia,
  - significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or

- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; and
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Notice sets out in the details of cause section a reference to an entry into another tenants unit without permission on August 23, 2018 and a reference to a caution notice dated August 20, 2018 for the Tenant using profanity in a loud voice.

The Landlord states that no letter was sent to the Tenant that set out any term of the tenancy agreement that was wither material or breached.

The Landlord states that on August 24, 2018 the Tenant entered another tenant's unit without permission and raised her voice. The Landlord provides a letter from this other tenant dated August 24, 2018. The Landlord states that this tenant indicates that the incident left her upset, angry, uncomfortable and not very safe. The Landlord states that there is no evidence that the Tenant refused to leave after being asked to do so at any time after entering the unit. The Landlord also provides a letter from a witness to this incident dated September 28, 2018 (the Witness letter). The Landlord states that this letter does not make any reference to any person being disturbed by the incident.

The Landlord states that the Tenant was also given a letter dated May 24, 2018 in which the Tenant was cautioned about using profanity and a loud voice. The Landlord states that this caution letter was sent as a result of a letter dated May 7, 2018 from a tenant complaining that the Tenant was volatile and cause the tenant to be afraid. The Landlord states that there have been no complaints from these two tenants or any other tenants since the May and August 2018 incidents. The Landlord argues that there is a pattern of behavior as noted in a document submitted as evidence and entitled "Resident Note files" for the period July to October 2018. The Landlord states that all the residents in the building, including the Tenant, are seniors.

The Tenant's advocate argues that the letter of May 7, 2018 shows that the complaining tenant is not credible as the letter includes reference to a provocation by this complaining tenant and that if this tenant were afraid of the Tenant the evidence of provocation contradicts this fear. The Advocate also argues that as there are only two caution letters, that these letters are about the Tenant's loud voice and that that the complaints are subjective as the Tenant speaks normally in a loud voice. The Advocate argues that the caution letters only reflect the complainer's side of the story and does not consider the Tenant's side. The Advocate argues that speaking loud or using profanity does not warrant the end of the tenancy. The Advocate refers to its written submission for further argument.

The Landlord states that following the complaints the Tenant was given opportunity to present her side of the story and that the Tenant's story in relation to the entry of the other tenant's unit was contradicted by both the other tenant and the witness. The Landlord states that it takes the time to investigate complaints before it acts. The Landlord states that she is unaware of the hearing difficulties of the other tenants. The Landlord states that the Tenant's pattern of speaking in a loud voice is often interpreted by other tenants as "not positive".

The Tenant states that she knocked before entering the other tenant's unit and was told to enter. The Tenant states that she was never asked to leave and that she did nothing to interfere with or disturb another tenant. The Tenant states that she used to work in health care and has adopted a trait of speaking in a loud voice as a result. The Tenant states that she also lives in a building where a lot of the residents are deaf.

### Analysis

Section 47(1)(d) and (h) of the Act provides that a landlord may end a tenancy by giving notice to end the tenancy if:

- the tenant or a person permitted on the residential property by the tenant has, inter alia,

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, or
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; or
- the tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so

As the Landlord did not provide evidence that the Tenant was given a letter setting out a breach of any term of the tenancy agreement I find that the Landlord has not substantiated that the tenancy should end for breach of a material term of the tenancy agreement.

As the Landlord has only provided evidence of the Tenant using a loud voice and profanity on a couple of occasions and while I can consider this to be a disturbance or an annoyance, as there is little evidence of this having any significant effect on anybody I find that the Landlord has not shown sufficient evidence of significant interference or unreasonable disturbance. The Landlord did not provide any evidence of any jeopardy to any one's health or safety and while the Tenant may or may not have knocked before entering the other tenant's unit there is no evidence that the Tenant was subsequently asked to leave and refused to do so. I therefore do not consider this incident to be anything significant or unreasonable. Although the tenant who wrote the letter about the entry of the Tenant into her unit indicates that she did not feel safe, there is no evidence that the Tenant was ever asked to leave or refused to leave after being asked. As a result I do not find the assertion of fear to be credible.

Overall I consider that the Landlord's evidence only illustrates a singular amount of equally petty behavior between residents. This is no evidence of any significant disturbance or interference by the Tenant alone and I therefore find that the Notice is not valid for its stated reasons and that the Tenant is entitled to its cancellation. The tenancy continues.

Conclusion

The Notice is not valid for its stated reasons and is cancelled.

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: October 24, 2018

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Residential Tenancy Branch