



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenants to cancel a 1 Month Notice to End Tenancy for Cause.

The Tenant said she served the Landlords with the Application and Notice of Hearing (the “hearing package”) by personal deliver on October 29, 2018. Based on the evidence of the Tenant, I find that the Landlords were served with the Tenants’ hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

### Issues(s) to be Decided

1. Are the Tenants entitled to an order to cancel the Notice to End Tenancy?

### Background and Evidence

This tenancy started on November 1, 2017 as a month to month tenancy. Rent is \$1,664.00 per month payable on the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$800.00 at the start of the tenancy. The Tenant said a move in condition inspection report was completed at the start of the tenancy.

The Landlord’s agent said she served the Tenant with a 1 Month Notice to End Tenancy for Cause dated October 19, 2018 due to an excessive number of noise complaints and a complaint about an unregistered vehicle. The Landlords’ agent said there have been a number of excessive noise complaints starting on November 6, 2017 right after the Tenants moved in, then again on December 2, 2017 and December 20, 2017. The Landlords’ agent continued to say the most resent complaint was on September 7, 2018 from a neighbour who complained to the Strata about the Tenants making excessive noise during the day and at night. The Landlord’s agent said the Strata issued two warning letters on September 24, 2018, which that agent delivered in person to the

Tenant on September 28, 2018. The first letter was in regard to an uninsured vehicle parked at the Tenant's rental unit. The second letter indicated the Strata had complaints about the Tenants making excessive noise that caused a nuisance or hazard to other persons and the Tenants caused unreasonable noise and unreasonably interfered with the rights of other persons of the strata. The Landlords' Agent said she delivered the letters to the female Tenant and the Tenant said the noise issue would not happen again.

The Landlords' agent continued to say the Strata received additional complaints and the Strata issued another warning letter about excessive noise about the Tenant and fined the Landlord \$200.00 for the Tenant violating Strata rules. The Landlords' agent said the Landlords instructed her to issue a 1 Month Notice to End Tenancy for Cause as the Tenants had repeatedly caused excessive noise and the Tenants disregarded the Strata's waring letters and Strata rules. The Landlords' agent said the Landlords are requesting the Tenants' application be dismissed and the Landlords receive an Order of Possession for January 4, 2019 which is 34 days after the effective vacancy date on the 1 Month Notice to End Tenancy for Cause dated October 19, 2018.

The Tenant said the noise complaints are not valid as the noise her family makes is just normal family noise. The Tenant said she does not fight with her daughter or the male Tenant and her daughter is a normal teenager who does not cause excessive noise or trouble. In addition the Tenant said the neighbour who complained about her, is out of control and she complains about everyone. The Tenant continued to say she has been told the complaining neighbor has caused other evictions. The Tenant said she does not have any corroborative evidence to support these claims about the complaining neighbor.

The Tenant continued to say she does not remember the Agent delivering the second letter to her, but the Tenant said the Agent did tell her after the first complaints that three warning letters from the Strata and a fine to the Landlords/owners of the rental unit is grounds for an eviction.

The Landlords' agent said the Tenants have received 3 waring letters from the Strata and the Landlords/owners have been fined \$200.00 for the Tenants excessive noise violations. The Landlords agent said she told the Tenants they could talk with the Strata about the complaints, but it is her understanding the Tenants have not done this.

The Tenant said they have not talked to the Strata as they thought that was the job of the Landlords or Agent.

The Landlords' agent said in closing the Landlords want to end the tenancy by January 4, 2019.

The Tenants said in closing that the neighbor's complaints are not valid and the Strata letters are based on incorrect information. The Tenant said there is no excessive noise; therefore the Notice to End Tenancy dated October 19, 2018 should be cancelled and the tenancy should continue.

### Analysis

I have reviewed the evidence submitted for the hearing and the testimony given at the hearing. The Landlord has issued a 1 Month Notice to End Tenancy for Cause based on section 47 (1)(d) and (e) as below.

Section 47 of the Act says:

(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property

The Tenant says that the noise her family makes is normal noise a family makes in the course of living. As well the Tenant indicated that the neighbor making the complaints about her family is exaggerating the situation and is out to get the Tenants. This exaggeration of the facts has given the Strata an incorrect understanding of the

situation. The Tenant said there is no excessive noise and the Notice to End Tenancy should be cancelled.

The Landlords' agent said she has given verbal and written warnings to the Tenants about excessive noise 6 times and the unlicensed vehicle 1 time. Included in those warnings were three letters from the Strata. The Strata does an independent assessment of the situation when the Strata receive a complaint. The Agent said the Strata has issued three warning letters and has fined the Landlords \$200.00 because of the Tenants' action. The Landlords' agent said the Tenants knew this is grounds to end a tenancy and the Tenant has done nothing to correct the situation.

I accept the Landlords' agent's testimony that the Tenant was given fair warnings about excessive noise. The Agent gave her verbal warnings and the Strata issued written warnings as well as a fine to the Landlords for the Tenants' excessive noise. I also find a Strata would not issue these warning letters or a fine on the Landlords/owners of the rental unit if they did not find grounds to do so. I accept that the Tenants have violated the Strata rules by making excessive noise.

Section 47 (d) and (e) of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant.

In this case it is my finding that the reasons given for ending the tenancy have reached the level of **unreasonableness, significance or seriousness** required by section 47(d) and (e) of the Residential Tenancy Act. I find the Tenants have not established grounds to cancel the 1 Month Notice to End Tenancy for Cause date October 19, 2018. The Notice to End Tenancy stands in full effect. , further, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect January 4, 2019 after service of it on the Tenants.

The Tenants application is dismissed without leave to reapply.

Conclusion

The Tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply.

An Order of Possession effective January 4, 2019 has been issued to the Landlord. A copy of the Order must be served on the Tenant in accordance with the Act: the Order of Possession and may be enforced in 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: December 4, 2018

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Residential Tenancy Branch