



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

On December 17, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a 1 Month Notice to End Tenancy for Cause dated December 8, 2018.

The Landlord and Tenant appeared at the hearing. The Tenant was assisted by an advocate. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

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.

### Issues to be Decided

- Does the Landlord have sufficient cause to end the tenancy?

### Background and Evidence

Both parties testified that the tenancy began on December 1, 2016, on a month to month basis. Rent in the amount of \$675.00 is due on or before the first day of each month.

The Landlord issued a 1 Month Notice to End Tenancy for Cause (“the 1 Month Notice”) to the Tenant in person on December 8, 2018. The Landlord provided a copy of the Notice.

The Landlord selected the following reason for ending the tenancy in the 1 Month Notice:

*Tenant or a person permitted on the property by the Tenant has:*

- *Seriously jeopardized the health or safety or lawful right of 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 testified that there are ongoing concerns regarding the Tenants behaviour dating back to 2017, and the Landlord submitted documentary evidence regarding precious concerns.

The Landlord, Mr. B.W. testified that in July 2018, the Tenant had another individual named Alex staying with him. Mr. B.W. received reports that the Tenants guest was engaged in drug deals and bringing prostitutes onto the rental property. Mr. B.W. submitted that the Tenants guest threatened him in July 2018.

Mr. B.W. testified that in response the concerns he informed the Tenant that his guest was not permitted on the rental property. Mr. B.W. testified that he did not put his concerns into writing and provide a warning letter to the Tenant.

Mr. B.W. testified that the Tenants guest Alex moved out in July 2018, and that things went back to normal until December 2018.

Mr. B.W. testified that the Tenant allowed a drug dealer onto the property. He testified that the person threatened him in the covered parking area. Mr. B.W. submitted that he later found syringes and a pill bottle in the parking area.

Mr. B.W. testified that in December 2018, he observed the Tenant bring Alex back onto the property. Mr. B.W. testified that Alex was just collecting his remaining possessions. Mr. B.W. submitted that Alex told him he would "see him on the street".

In reply, the Tenant testified that he had a friend staying with him for a few days in July and his friend had a run in with the Landlord. The Tenant testified that he asked his friend to leave the unit and his friend left the unit taking most of his possessions with him.

The Tenant testified that when the Landlord observed his friend on the property in December he was just there to retrieve his remaining belongings.

In response to the Landlords testimony regarding the alleged drug dealer, the tenant testified that a person he knows named Zach yelled up to his him and asked if he could use his bathroom. The Tenant testified that he was not previously aware of any altercations between Zack and the Landlord. The Tenant testified that he only became aware of an apparent issue after the Landlord served him with the notice to end tenancy.

The Tenant testified that he has not invited Zack onto the property other than the time where he permitted him to use his bathroom.

The Tenants advocate submitted that the documentary evidence provided by the Landlord is some of the same evidence the Landlord submitted on a previous hearing where the Landlord was not successful.

The Tenants advocate submitted that the Landlord alleges there were threats of assault and drug use; however, there is no evidence of Landlord reports or police reports to support their submissions. The Tenants advocate questioned why the Landlord would not have documented the alleged serious incidents or reported the incidents to the police.

### Analysis

In the matter before me, the Landlord has the onus of proof to prove that there is sufficient reason to end the tenancy based on the reasons provided in the 1 Month Notice. Based on the evidence and testimony before me, I make the following findings:

The Tenant is allowed to have guests on the property and is responsible for the actions and behavior of his guests. Section 30 of the Act provides that the Landlord must not unreasonably restrict access to residential property by a Tenant or a person permitted on the property by the Tenant.

I find that the Landlord has concerns about the safety of the rental property with respect to the behavior of the Tenant's guest; however, there is insufficient evidence before me to establish that the Tenants guest Alex was dealing drugs on the rental property. Furthermore, the presence of a prostitute, or the allegation that there was a prostitute on the property, is not in itself a sufficient ground for ending a tenancy. There was no

evidence submitted of how the presence of a prostitute(s) seriously jeopardized the health or safety of another occupant or the Landlord.

I find that the mere presence of the Tenant's guest on the rental property in December 2018, is not a breach situation following the warning the Landlord provided to the Tenant in July 2018, because while the Landlord alleges there was previous drug dealing, there is insufficient evidence to establish this. As such, the Landlord's decision to bar the Tenant from the property was not reasonable.

While I find that the threat of assault on the Landlord is a very serious matter, and is a situation where the Tenant could be held accountable for the actions of his guest, it appears that the Tenants guest said "I will see you on the street" after the Landlord told him to leave the property in December. In the circumstances, it appears the comment or threat was made in the heat of the moment while the guest was leaving the property and there is no evidence before me that the Landlord treated it seriously by filing a police report.

With respect to the allegations regarding the Tenant's friend Zack, I find that there is no reliable evidence linking Zack to the syringes found in the covered parking. The Landlord did not observe who left the syringes there. The syringes could have been left by anyone who had access to the parking. While the Landlord submits that he was threatened with a hammer, it appears there is no documentation of this incident or police report filed at that time. The Tenant testified that he only invited Zack onto the rental property the one time to use the bathroom.

I find that Landlords documentary evidence from 2017, into early 2018 is evidence that was previously considered at a hearing and is not sufficient to support ending the tenancy.

I find that the Landlord has not provided sufficient evidence to support the reasons to end the tenancy due to health or safety or lawful right of another occupant or the Landlord being seriously jeopardized, or a breach of a material term of the tenancy, therefore, I cancel the 1 Month Notice To End Tenancy For Cause dated December 8, 2018.

The Tenant's application is successful. I order the tenancy to continue until ended in accordance with the Act.

Conclusion

The Tenant's application is successful. The 1 Month Notice to End Tenancy for Cause dated December 8, 2018, cancelled.

The tenancy will continue until ended in accordance with the Act.

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: January 31, 2019

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Residential Tenancy Branch