



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JONANIAN VENTURES  
LTD. DBA ALDER CREST APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, LRE, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"):

- to cancel a One Month Notice to End Tenancy for Cause dated May 27, 2019 ("One Month Notice");
- for the Landlord's right to enter to be suspended or restricted; and
- to recover the cost of his filing fee.

The Tenant and an agent for the Landlord (the "Agent") appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the decision would be emailed to both Parties and any orders sent to the appropriate Party.

In the hearing, the Landlord said he received the Tenant's Application, a four-page, handwritten letter and two statements of character reference. However, the Landlord

said he did not receive the Notice of Hearing from the Tenant, and that he had to seek out this information on his own. However, the Landlord said he had time to consider and respond to the evidence the Tenant submitted. Accordingly, in these circumstances, I find that the Parties were properly served with and had time to review each other's documentary evidence prior to the hearing.

In the hearing, the Agent informed me of the legal name of the Landlord, so I amended the Application to reflect this, pursuant to section 63(3)(c) and Rule 4.2.

Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the Tenant indicated two different matters of dispute on the Application, the most urgent of which is the Application to set aside the One Month Notice. I find that the claims on the Application are not sufficiently related to be determined during this proceeding. I advised the Parties in the hearing that I will, therefore, only consider the Tenant's request to set aside the One Month Notice and the recovery of the filing fee at this proceeding. The Tenant's claim that the Landlord's right to enter be suspended or restricted is dismissed, without leave to re-apply.

#### Issue(s) to be Decided

- Should the One Month Notice be confirmed or dismissed?
- Is the Landlord entitled to an order of possession?
- Is the Tenant entitled to recovery of the \$100.00 Application filing fee?

#### Background and Evidence

The Parties agreed that the periodic tenancy began on October 26, 2011, with a monthly rent of \$635.00, due on the first day of each month. The Parties agreed that the Tenant paid a security deposit of \$320.00, and no pet damage deposit.

The Tenant's evidence is that on May 22, 2019, he was in the back parking lot of the residential property with another tenant who is about 90-years old, when another tenant drove into the parking lot at a high rate of speed (the "Driver"). The Tenant said that he and the older tenant had to jump onto the ground, out of the way to avoid being hit by the Driver's vehicle. The Tenant said that the 90-year old returned to his apartment, and the Tenant realized that he had hurt his back jumping out of the way.

The Tenant said that he and the Driver got into an argument and the Driver said he was

going to call the police. The Tenant said he encouraged the Driver to do so, and he said he would call the building manager. The Tenant said the Driver then slapped the Tenant's cell phone out of his hand. He said:

At this point there were no witnesses. I'm 55 and he's just a kid, but I'm not going to have someone touch or slap me without push back. He was 150 pounds and he's French and has attitude for a small person. Listen mellow out or we're going to have a real problem.

The Tenant said that he is six foot four inches tall and 305 pounds. He said the Driver is five foot eight inches tall and about 150 pounds. He said there was no blood and that he "just slapped him back and forth. This is the main problem. I was getting out of the way to save my life and when I got up, I was a little bit pissed. My first reaction was to pound him, but I didn't do that. I tried to talk to him first."

The Landlord said:

It seems simple. I was not there, but contrary to what [the Tenant] is saying, I do have a number of witness statements and a victim's statement. Two of the witnesses saw indications that an assault took place. [The Tenant] struck [the Driver] on several occasions. I'm not going into why the dispute happened. If tenants can't settle disputes themselves, I assist. I've been a landlord for 25 years. When you get to the point of assault, regardless of the reasons, that constitutes something I can't support in the building. [The Tenant] has on other occasions exhibited aggressive behaviour. I'm giving evidence of another situation, but there are times when [the Tenant] becomes agitated and it scares people. The bottom line is - I have a responsibility to ensure the safety of all tenants. An assault is different from a verbal disagreement.

The Landlord served the Tenant with a One Month Notice by sliding it under the rental unit door on May 27, 2019. The vacancy effective date was June 30, 2019. The grounds the Landlord checked on the form were that the Tenant significantly interfered with or unreasonably disturbed another occupant or the Landlord, and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Based on the testimony of the Parties, particularly the Tenant's own evidence that he slapped the Driver in the face more than once, I find the Landlord has established sufficient cause, pursuant to section 47 of the Act, to end the tenancy. I find that the Tenant significantly interfered with or unreasonably disturbed another occupant. As a result, the Tenant's Application to cancel the One Month Notice is dismissed without leave to reapply, and I therefore decline to grant the Tenant the recovery of the \$100.00 Application filing fee.

I also find that the One Month Notice issued by the Landlord complies with section 52 of the Act. Given the above, and pursuant to section 55 of the Act, I find that the Landlord is entitled to an Order of Possession.

### Conclusion

The Tenant significantly interfered with and unreasonably disturbed another tenant by slapping him in the face. Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective on July 31, 2019 at 1:00 p.m. This Order may be filed in the British Columbia Supreme Court and enforced as an Order of that Court.

Dated: July 12, 2019

---

Residential Tenancy Branch