



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

On July 3, 2019, the Tenant 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 *Residential Tenancy Act* (the “Act”).

Both the Tenant and the Landlord attended the hearing. All in attendance provided a solemn affirmation.

The Tenant advised that he served the Landlord with the Notice of Hearing and evidence package by hand on or around July 10, 2019 and the Landlord acknowledged that this package was received. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served the Notice of Hearing and evidence package.

The Landlord advised that he served his evidence by hand to the Tenant on August 18, 2019 and the Tenant confirmed that he received this evidence. As service of this evidence complies with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. 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.

I note that Section 55 of the *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 complies with the *Act*.

### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on May 1, 2019 and rent is currently established at \$800.00 per month, due on the first day of each month. The Tenant paid a security deposit of \$400.00. The Tenant confirmed that he signed a written tenancy agreement agreeing to these terms.

The Landlord advised that the Notice was served to the Tenant by posting it on his door on June 30, 2019 and the Tenant confirmed that he received this on or around July 2, 2019. The reason the Landlord served the Notice is because the “Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.” The Notice indicated that the effective end date of the Notice was August 1, 2019.

He advised that he lives above the Tenant with two additional roommates. He stated that as the laundry facilities are in the Tenant’s rental unit, he had an agreement with the Tenant that access to the rental unit would be granted every Sunday from 9:00 AM to 6:00 PM for him and his roommates. He advised that the Tenant would leave the door to his rental unit open so that the other people could use the laundry machines. The Landlord advised that on June 30, 2019, one of his roommates called due to an altercation he had with the Tenant over use of the laundry. The roommate felt threatened by the Tenant’s behaviour, was pushed, and he did not want to live there

anymore. Consequently, the police were called. He stated that the police attended and took a report.

The Landlord speculates that the Tenant “wanted to put the roommate[sic] in his place” as it was his belief that there were other instances when laundry was done outside of the agreed upon times for laundry. He stated that the Tenant will occasionally yell at the Landlord if the Landlord goes downstairs and he referenced supporting documentary evidence that demonstrates that the Tenant is a “violent guy”.

The Tenant acknowledged that he had an informal agreement that the Landlord and his roommates could enter his rental unit on Sundays from 9:00 AM to 6:00 PM to do their laundry. However, he advised that he has had four previous incidents where one particular roommate would commence laundry that would not complete until after 6:00 PM. He stated that he discussed these issues with the Landlord, but nothing changed. He stated that he bases his own schedule around this laundry access as he does not like leaving his rental unit freely accessible to anyone. He advised that on June 30, 2019, this roommate put a load of laundry in the washing machine at 5:20 PM and it would not finish washing or drying until well past the 6:00 PM cut-off. He advised this person three times that he had commitments and would have to leave at 6:00 PM for several days. He stated that this person was not agreeable and would not leave, that a confrontation ensued, that he raised his voice, and that he told this person to leave; however, there was no physical assault. He confirmed that the police were called, attended, and determined that there was no issue to respond to.

He stated that he is “not an angry person” and he has suggested to the Landlord in the past to move the laundry machines to a common area of the property to avoid these situations in future; however, the Landlord advised that it was not possible. Both parties disagreed over the feasibility of moving the laundry machines.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

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*. In reviewing this Notice, I am satisfied that the Notice meets all of the requirements of Section 52 and I find that it is a valid Notice.

I find it important to note that a Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

***Landlord's notice: cause***

***47 (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,*

Regarding the validity of the reason indicated on the Notice, the onus is on the party issuing the Notice to substantiate the reasons for service of the Notice. With respect to this reason on the Notice, the consistent evidence is that there was a verbal altercation between the Tenant and the roommate over the use of the laundry facility in the rental unit. While the Landlord has provided some evidence to support his position that this altercation was significant, I do not find that there is any compelling or persuasive evidence of any physical assault.

Although there does not have to specifically be a physical altercation to warrant justification for service of this Notice, the Landlord must demonstrate that the significance of the altercation justifies that the tenancy should end. While the Tenant has acknowledged that he engaged in an argument with this roommate, I do not find that there is enough evidence to establish that this interaction or the Tenant's behaviours constitute a significant interference or an unreasonable disturbance that substantiates service of the Notice.

However, based on the evidence submitted and acknowledgement from that Tenant, I find that engaging in further altercations with other occupants of the property can form the basis for a future Notice. The Tenant is on formal notice that continued behaviours or actions that are unacceptable or inappropriate may potentially jeopardize his tenancy.

Regardless, as I am not satisfied that the Landlord has sufficiently substantiated the ground for ending the tenancy under the reason that the Tenant “significantly interfered with or unreasonably disturbed another occupant or the landlord”, I am not satisfied of the validity of the Notice. Ultimately, I find that the Notice is of no force and effect.

### Conclusion

Based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of June 30, 2019 to be cancelled and of no force or effect.

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: September 4, 2019

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Residential Tenancy Branch