



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt an Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) to cancel the One Month Notice to End Tenancy for Cause dated October 31, 2019 (1 Month Notice).

The tenant, a support person for the tenant CW (support), landlord MF (landlord), agent GE (agent) and two witnesses KJ and LD (witnesses) attended the teleconference hearing and were affirmed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The landlord did not submit any documentary evidence in support of the 1 Month Notice; however, the landlord is relying on the attachment to the 1 Month Notice, which the tenant submitted in evidence. The landlord also stated they are relying on the testimony of the landlord, agent and witnesses in support of the 1 Month Notice.

### Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to both parties. The parties were also advised that any applicable orders would be emailed to the appropriate party for service on the other party.

### Issue to be Decided

1. Should the 1 Month Notice be cancelled?

### Background and Evidence

A copy of the 1 Month Notice was submitted in evidence. There is no dispute that the tenant received the 1 Month Notice dated October 31, 2019 on October 31, 2019. The tenant disputed the 1 Month Notice on November 8, 2019. The effective vacancy date is listed was December 1, 2019, which has passed. The parties confirmed that the tenant has paid for use and occupancy for January 2020.

The 5 causes listed on the 1 Month Notice are:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. 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.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
4. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant.
5. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The "Details of Cause" section listed on the 1 Month Notice refers to the attachment (attachment) submitted in evidence by the tenant, which lists a total of 8 examples of how the tenant has negatively impacted other tenants and the landlord.

The tenant stated that they were not advised of any specifics such as times or dates regarding the allegations, which the tenant was advised was incorrect as the attachment indicates dates and time of the allegations resulting in the 1 Month Notice being issued. As a result, I will address this later in this decision.

The agent stated that they personally witnessed on October 26, 2019 the tenant smoking pot in the rental unit and having their music at loud levels at 11:36 p.m. and that the tenant was confrontational and adversarial by stating that he knows his rights and that the police have to issue a noise complaint. The tenant denied smoking in this rental unit and making any noise as indicated in the attachment to the 1 Month Notice.

The agent also indicated that the tenant has made unreasonable noise and was warned on May 2, 2019, July 24, 2019, August 28, 2019, August 28, 2019, and August 30, 2019.

As a result of the above, both witnesses were affirmed and testified. Both witnesses confirmed that they vacated the rental building due to problems associated with noise from the tenant and sounds of fighting with a female in the tenant's rental unit. Both witnesses also stated that the police were called to attend the tenant's residence, which was disturbing and that the tenant ignored all warnings about noise and would continue to be noisy at late hours.

The tenant made the decision to only cross-examine one witness, KJ and asked for a police file number, which the witness did not have as the witness stated another person had called the police and not the witness. The tenant also asked for specific dates and times, both of which were provided by the witness. The dates were consistent with the dates provided by the agent and described above. The times were also consistent. The agent was able to provide the police file number during the hearing for the October 26, 2019 noise complaint.

During the hearing, the tenant was cautioned on at least three occasions to stop interrupting the witness, agent and the arbitrator. The tenant failed to comply with my caution and directions and continued to interrupt until the end of the hearing.

### Analysis

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

When a landlord issues a notice under Section 47 of the Act they bear the responsibility in providing sufficient evidence to support the issuance of that notice. I have considered the testimony, documentary evidence and digital evidence, and I am satisfied that the landlord has provided sufficient evidence to support that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

In reaching this finding, I find the testimony of the agent, landlord and witnesses to be consistent and believable. I find the tenant's testimony was not believable or consistent as the tenant denied being provided specific dates and time and details of the incidents, which the tenant actually provided in evidence and is listed on the attachment to the 1

Month Notice. Furthermore, I find the tenant during the hearing was confrontational and refused to listen to direction, which supports the behaviour described by the agent and landlord. Therefore, I find it was not necessary to consider any further evidence related to the other four causes listed on the 1 Month Notice. I am satisfied that it is more likely than not the tenant has had their music loud at unreasonable times such as 11:36 p.m. and has caused such significant interference that the two witnesses have vacated the rental building due to the actions of the tenant. Therefore, I find the 1 Month Notice is valid based and I dismiss the tenant's application without leave to reapply.

I find the tenancy ended on December 1, 2019, which was the effective vacancy date listed on the 1 Month Notice. Pursuant to section 55 of the Act, I have reviewed the 1 Month Notice and find that it complies with section 52 of the Act and therefore, I grant the landlord an order of possession effective **January 31, 2020 at 1:00 p.m.** as the tenant has paid for use and occupancy of the rental unit until that date.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The tenancy ended on December 1, 2019. The landlord is granted an order of possession effective January 31, 2020 at 1:00 p.m., which must be served on the tenant. Should the landlord require enforcement of the order of possession, the landlord may apply in the Supreme Court.

This decision will be emailed to both parties. The order of possession will be sent by email to the landlord only for service on the tenant.

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 7, 2020

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Residential Tenancy Branch