



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Atira Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

The tenant filed an Application for Dispute Resolution on December 30, 2019 seeking an order to cancel the One Month Notice to End Tenancy for cause (the "One Month Notice"). The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the "Act") on February 28, 2020.

In the conference call hearing I explained the process and offered each party the opportunity to ask questions. The tenant and the landlords attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing.

The landlord confirmed receipt of the Notice of Dispute Resolution, delivered by the tenant in person to the rental agency office on December 30, 2019. This was a 6-page package including the tenant's application and a copy of the One Month Notice.

The landlords are seeking monetary compensation and filed an Amendment to an Application for Dispute Resolution. The landlords did not file their own application for dispute resolution. The landlords may not amend the tenant's application. I did not consider the landlords' monetary claim, I informed the parties of this at the start of the hearing.

### Issue(s) to be Decided

Is the tenant entitled to an order that the landlord cancel or withdraw the One Month Notice to End Tenancy for cause?

If unsuccessful in this Application, is the landlord entitled to an Order of Possession of the rental unit?

### Background and Evidence

I have reviewed all evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlords and tenant both agreed that there is a tenancy agreement in place, signed when presented to the tenant on the tenancy start date May 1, 2017. The rent amount was set at \$320.00 per month, payable on the first day of each month. The security deposit agreed to was \$160.00, with no pet damage deposit.

The landlords provided documentary evidence that speaks to the history of the tenancy agreement.

The landlords issued the One Month Notice dated December 19, 2019, with the effective date for the tenant to move out being January 31, 2020. The landlords indicated the following reasons on page 2:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord.
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlords also provided a Proof of Service to show service upon the tenant took place on December 23, 2019. The record shows this registered mail was signed for by the addressee when received on December 23, 2019.

In the hearing the landlords spoke to the issue at hand and made reference to the documents enclosed as evidence. The chief incident at issue in this hearing is that which occurred on November 30, 2019, where the tenant left the stove on while sleeping. This triggered the fire alarm, and other building residents entered the tenant's unit to turn off the stove. The fire department arrived to reset the building alarm system. The documentary evidence includes 8 complaint letters, with 20 other people residing on the same floor, many with health issues.

This is the third of such similar incidents. The documentary evidence includes a letter to the tenant dated January 8, 2019, describing a smoke alarm "sounding off" on January 2, 2019. There is also a description of the same issue from the building manager describing an incident on June 16, 2017.

The landlords presented that the building is utilized for independent housing, with it being an unattended and unsupervised building. The building manager does not reside in the building and makes visits as and when needed on a regular basis.

The tenant confirmed the evidence provided by the landlord, and acknowledged that this behaviour was ongoing, and damaging to himself and endangering others. The tenant and his advocate provided they are seeking treatment for the illness that causes these difficulties. That treatment will continue until the end of April 2020.

The landlords stated that the tenant paid rent for the unit – which is funded by a disability insurance – for the month of March 2020.

### Analysis

The oral testimony provided in portions by each of the landlords in this hearing accurately reflects what they provided in the documentary evidence. In this respect I find there are no discrepancies in the landlord's evidence.

The tenant did not take issue with any of the evidence in the documents and did not dispute any points presented by the landlords in their oral testimony. The tenant confirmed the nature of the difficulties they caused the other residents in the building, and that it is a recurring problem that cannot be repeated. I find this is an acknowledgement by the tenant that the reasons indicated on the One Month Notice are valid and accurate.

The tenant gave detail on their addiction issue, and pledged completion of the residential treatment program at the live-in treatment centre. The tenant's advocate made a submission on the tenant's desire to continue the tenancy, with stricter terms in place. The landlords were not agreeable to this given the history of the situation which had continued over 2 years prior.

The landlords accepted that rent for the unit has been paid for the month of March, and agreed to the end of tenancy, with an order of possession, for the end of March 2020. The tenant accepted this date as the effective end of tenancy and stated that there is no immediate risk in the interim to other residents in the building while they are in the treatment centre until that time.

I find that by the tenant's failure to pay heed to the safety risk, he jeopardized the health or safety or lawful right of another occupant and put the landlord's property at significant risk.

The tenant's application to cancel the One Month Notice is dismissed. The tenancy is ending.

Under section 55 of the *Act*, when a tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied the Notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the landlord an order of possession.

I find that the One Month Notice complies with the requirements of form and content. The landlords are entitled to an order of possession on the effective date within the One Month Notice; however, the landlords agreed to give the tenant additional time to find another accommodation.

### Conclusion

I grant an Order of Possession to the landlords effective no later than March 31, 2020, after service on the tenant. The landlords are provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of 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 *Act*.

Dated: March 9, 2020

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Residential Tenancy Branch