



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OLC, CNC**

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order for the landlord to comply with the *Act*, Regulations and/or tenancy agreement pursuant to section 62;
- An order to cancel a One Month Notice To End Tenancy for Cause pursuant to section 47.

The landlord attended the hearing. The tenant did not attend the hearing, however the tenant's mother attended the hearing as agent. The tenant's mother indicated she thought the tenant would attend the hearing but that the tenant's attendance would be contingent on the tenant securing a ride from a mental health worker. The ride would unlikely due to the Covid-19 pandemic. The tenant's mother indicated the tenant did not have a phone of his own.

The landlord testified the tenant's sister was also scheduled for a dispute resolution proceeding the same time as this hearing. Due to this, the resident manager of the rental building would not be available for the hearing as she was participating in the other hearing. The tenant's mother was unaware her daughter was scheduled for hearing the same time and date of this hearing.

The landlord acknowledged being served with the tenant's Notice of Dispute Resolution Proceedings. The tenant's mother acknowledges being served with the landlord's evidence. Neither party indicated they had any issues with timely service of documents.

### Issue(s) to be Decided

Should the One Month Notice To End Tenancy for Cause be upheld or cancelled?

Should the landlord be required to comply with the Act, Regulations or tenancy agreement?

### Background and Evidence

The parties agree on the following. The rental unit is not located on First Nation Lands and is not transitional housing.

The landlord gave the following undisputed testimony. The tenant has been living in the rental unit for several years. He became a tenant when the building was run by a charitable organization. That organization returned the running of the building back to the owner at the end of 2017. The named landlord in this proceeding became the property manager in February of 2018.

When she became property manager, she signed a tenancy agreement with the tenant. Rent is paid by the government and there has been no issue with timely payment of rent. On January 19, 2020, the tenant was personally served with a One Month Notice to End Tenancy for Cause by the resident manager, DR. The reasons for ending the tenancy stated on the Notice were:

*The 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.*
- Put the landlord's property at significant risk.*

Under details of cause, the landlord wrote:

*Unit is unhealthy. Plumber refuses to work on toilet or in his room until dealt with. Upon entering the unit to repair plumbing dirty needle on bathroom sink, cut hair all over. Unit has burn marks on walls & ceiling and in general is dirty. Doesn't lock door and when not home people just go in, some to drink, some to do drugs. Refuses to keep it locked when gone out. Put a lot of things in toilet, 3 times plugged.*

The landlord testified that a plumber was called to the rental unit approximately 2 months ago. The plumber refused to go into the tenant's unit because there were feces everywhere. The plumber went underneath the tenant's bathroom and disconnect the line to the tenant's toilet and discovered rocks and other debris plugging up sewer from the tenant's unit to the main sewer line. No invoice from the plumber or photos of the rental unit were provided.

The landlord also testified that the tenant pulled the cupboards off the kitchen walls and pulled the medicine cabinet door off in January of 2019. A week later, the landlord witnessed the tenant leave his unit with the door wide open. Inside, the landlord saw the gas oven was left on, and burners were also left on. A rag was left very close to the gas burners. The gas oven was removed from the tenant's rental unit afterwards for the safety of the other occupants of the residential property.

A week later, the tenant shoved a chair into the fridge, breaking the door. The landlord removed the fridge, however the charitable organization assisting the tenant replaced it with a bar fridge.

Lastly, the tenant never locks his door, even when he leaves the unit. Due to this, a variety of people have been coming over to the tenant's unit day and night. Of note, a particular guest of the tenant, "B" was previously removed from the building by police but keeps returning. This person was found in the tenant's room and the tenant's sister sought the assistance of the landlord to remove "B". The tenant is unwilling or incapable of keeping people out of his rental unit.

The tenant's mother gave the following testimony. The tenant was placed in the rental unit many years ago by the charitable organization to assist the tenant with the chronic homelessness he faced and the challenges the tenant has with schizophrenia. The tenant's mother feels the landlord isn't firm enough with her son, as her son needs greater authority to make him comply with the landlord's demands. The mother testified the landlord's notices '*go in one ear and out the other*'.

The tenant has difficulty keeping the unwanted people out. They come in, sleep there and do whatever they want in the tenant's unit. The resident manager is weak in enforcing the rules, unlike the tenant's former landlord. The tenant's mother has been trying to find assistance for her son, including people to come and clean the tenant's unit on a weekly basis but has had little progress. The tenant's mother says it's fine the stove has been removed, her son just needs a place to sleep, to avoid falling through the cracks.

### Analysis

In his application, the tenant acknowledges receipt of the landlord's Notice on January 19, 2020. I am satisfied he was served with it on that date in accordance with section 89 of the *Act*. He failed to dispute the Notice on January 24, 2020 within 10 days of receiving it in accordance with section 47 of the *Act*.

Section 47 of the *Act* provides that upon receipt of a Notice to End Tenancy for Cause, the tenant may, within ten days, dispute it by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files the application, the landlord bears the burden to prove he or she has valid grounds to terminate the tenancy for cause. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the Notice. In the matter at hand, the landlord must demonstrate the tenant

- *Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*
- *Put the landlord's property at significant risk.*

Although the tenant's mother attended the hearing as his agent, the tenant did not attend the hearing. As such, the tenant did not provide any evidence that contradicted the landlord's version of events. Likewise, the tenant's mother did not provide testimony that was contrary to the landlord's testimony; much of the landlord's mother's testimony reflected agreement with the landlord's story.

As such, based on the undisputed evidence of the landlord, I find the tenant has seriously jeopardized the health or safety or lawful right of another occupant or landlord when the tenant left his rental unit unattended with both the oven and burners left on in early January 2019. This event put the landlord's property at significant risk. The description of friends and acquaintances of the tenant coming over while the tenant is out of the room is also a cause for concern for the landlord which I find to be justified. The tenant's mother corroborated the landlord's assertion that the tenant is unable to prevent unwanted people from accessing his unit. The landlord is unable to maintain security or the safety of other occupants of the residential property when the tenant allows people into his unit without being there. For the above reasons, I find the landlord has verified the reasons for ending the tenancy and I uphold the landlord's notice.

Section 55 of the *Act* reads:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- a. the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- b. the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have examined the landlord's notice and find that it complies with the form and content provisions of section 52 of the *Act*, which states that the notice must be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

I grant the landlord an Order of Possession.

As the tenancy is ending, the tenant's application for the landlord to comply with the *Act* is dismissed.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after 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: March 30, 2020

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Residential Tenancy Branch