



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OLC, LRE, FFT

### Introduction

The tenant GH applies to cancel a one month Notice to End Tenancy dated September 4, 2020. He also seeks a compliance order that the landlord provide him with quiet enjoyment of his rental unit and an order limiting the landlord's right of entry.

The Notice in question claims two grounds to end the tenancy: first, that the tenant or a person permitted on the property by him has significantly interfered with or unreasonably disturbed another occupant or the landlord CG, and second, that the tenant or a person permitted on the property by him has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

Either of the two grounds, if proved, are lawful grounds for ending the tenancy under s. 47 of the *Residential Tenancy Act* (the "RTA").

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the evidence establish that the tenant has given good cause for ending this tenancy under either of the grounds stated in the Notice? If not, if this tenancy

continues, is the tenant entitled to an order regarding quiet enjoyment or landlord access?

### Background and Evidence

The rental unit is a one bedroom suite attached to the house the landlord lives in. The tenancy started June 1, 2020. There is no written tenancy agreement. The monthly rent is \$1450.00 due on the last day of the prior month. The tenant paid a \$725.00 security deposit. The landlord claims to have refunded \$25.00 of it. The tenant denies any refund.

In the Details of Cause(s) box in the Notice, the landlord has stated:

(GH) the tenant of (*the rental unit*) due to a number of unreasonable events there has been a complete breakdown of the landlord tenant relationship. On Monday, August 31, 2020 at 7:15 a.m. I (*CG the landlord*) opened my recycle box to put roadside. The lid of the box knocked on the side of the house. The tenant (GH) comes out his door in a hostile manner yelling at me about the unintentional knock against the house. This was witnessed.

The landlord described the location of the recycle box, a large wooden box with a lid. It is located against an exterior wall of the house. The tenant's bed is immediately on the other side of the wall. When the lid is opened it can rest (or slam) against that wall.

The landlord said the tenant came out that day yelling and pointing that his bed was right there. The landlord testifies she told the tenant she hadn't meant to knock the lid against the wall and that the tenant went back inside.

The landlord has filed significant materials to show other instances of cause given by the tenant and it was her intent to testify about those other instances. It was my ruling during this hearing that any event upon which a landlord relies to justify ending a tenancy for cause must be described or at least referred to in the "Details of Cause(s)" box in the government approved Notice. It is not uncommon for landlords to attach a separate paper listing "Details of Cause(s)."

The purpose of the requirement is to ensure a tenant has a clear understanding of the grounds alleged to entitle the landlord to end the tenancy. It permits the tenant to reasonably decide whether to challenge a Notice and to prepare evidence should he

choose to do so. The form clearly directs a landlord to “[d]escribe what, where and who caused the issue and include dates/times, names, etc. This information is required. An arbitrator may cancel the notice if details are not provided.”

The landlord was therefore limited to dealing with the August 31 incident, the only incident clearly referred to in the Notice.

The tenant responds that on the morning of August 31 he was lying down when he heard a bang on the wall. He went outside and asked the landlord not to bang on the wall. Words were exchanged. He said the landlord called him a “punk” and he told the landlord to “grow up.”

The tenant also testified about the landlord entering his suite, on written notice, for an inspection and that she then prepared a report wanting him to sign it. She also gave a notice to enter for the purpose of removing an air conditioning unit the parties were arguing about. For some reason not adequately explained by the tenant, he removed the unit himself before the landlord came and, somehow, the landlord got a phone call from the RCMP informing her she could come to the station and pick up her air conditioning unit.

The tenant also claims the landlord entered his portion of the attic from her portion of the attic without notice.

### Analysis

#### 1. The Notice to End Tenancy

The event that occurred on August 31 is not such a significant or serious event as to warrant eviction. In all likelihood the lid of the garbage box hitting the wall was an accident on the part of the landlord and the tenant, already embroiled in various disputes with the landlord, assumed it was an intentional or careless disturbance.

There is no evidence that the tenant has engaged in any “illegal activity.”

For these reasons I grant the tenant’s application and set aside the Notice

## 2. The Tenant's Claim for a Compliance Order and Restriction on Landlord Entry

The tenant testifies that the landlord has persistently requested his help on various jobs around the house. It would appear that he did not refused his help. In my view this is not a breach of quiet enjoyment. He can simply refuse to help and tell the landlord not to ask again. Until he does he cannot complain about the landlord's requests for help.

He indicates that there has been only one inspection so far during his tenancy and it was after proper notice. He complains the landlord looked everywhere in the rental unit. He was informed at the hearing that that is what an inspection is about. It was made clear at this hearing that he is under no obligation to sign any written condition report during the tenancy.

Regarding the attic, it appears that there is a portion of attic over the tenant's suite, with access through the ceiling in the tenant's bedroom. The attic above the tenants' suite connects with the attic above the landlord's portion of the house. It is divided by a wall with a door bearing a lock on the landlord's side of the wall.

This arrangement suggests that the attic above the tenant's suite would be a tenant area. However, it is not disputed but that at the start of the tenancy the landlord informed the tenant she was storing some things in that portion of the attic. That suggests the portion of the attic above the tenant's suite is shared space.

In my view there is no reasonable need for a compliance order or a restriction on landlord right of entry. The landlord has given proper notice to enter so far. I suggest that if she wishes to gain access to the portion of attic above the tenant's suite, even if it is access from her portion of the attic, she do so either with the tenant's permission or by giving him the proper notice ahead of time.

In result the tenant's claims for a compliance order and a restriction on landlord right of entry are dismissed.

## Conclusion

The one month Notice to End Tenancy dated September 4, 2020 is cancelled. The remainder of the tenant's application is dismissed.

As the tenant has had divided success ins his claim, I award him recovery of \$50.00 filing fee. I authorize him to reduce his next rent due by \$50.00 in full satisfaction of the fee.

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: November 03, 2020

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Residential Tenancy Branch