



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Associa British Columbia, Inc, Rhome Property Management  
(Agent) and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, RR, RP, PSF, LRE, OLC

### Introduction

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (Notice) issued by the landlord;
- a reduction in monthly rent;
- an order requiring the landlord to make repairs to the rental unit;
- an order requiring the landlord to provide for services or facilities required by the tenancy agreement or the Act;
- an order suspending or setting conditions on the landlord's right to enter the rental unit; and
- an order requiring the landlord to comply with the Act, regulations, or tenancy agreement.

The named parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters-

*Severing portions of the tenants' application –*

Rule 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application to cancel the Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the Notice.

As to the remaining issues listed on the tenants' application, these matters will be addressed within this Decision.

*Evidence –*

The tenant confirmed receiving the landlord's evidence. The landlord said they had not received any evidence from the tenant.

In reviewing the tenants' evidence, I determined that the only relevant evidence sent by the tenants is two paragraphs in a written statement. The remaining evidence pertained to the tenants' other issues. The tenants were provided the opportunity to speak about that evidence.

*Named parties –*

The tenants named the landlord's agent, PB, as the respondent/landlord. From the evidence, PB acts as agent and the landlord is a named company, "ABC Inc", who took over as landlord from the original landlord, with a property management company, RPM, representing them. I find it appropriate to add the name of the current landlord and property management company to the style of cause page and any resulting orders.

Additionally, the tenants have themselves listed three tenant/applicants, all with the same surname. The written tenancy agreement shows two of the listed applicants, RA

and AM, are listed as the tenants' children/occupants in the written tenancy agreement. At the start of the tenancy, RA was seven years old and AM was five years old.

In addition to MM, the first listed applicant, the written tenancy agreement and other documents, such as the Notice, list KM and PM, as tenants. As a result, I find it appropriate to amend the tenants' application, excluding RA and AM, as tenants and adding KM and PM as tenants on the style of cause page.

#### Issue(s) to be Decided

Should the One Month Notice to end tenancy be upheld or cancelled?

#### Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of September 1, 2008, a fixed term through August 31, 2009, monthly rent of \$900, due on the 1<sup>st</sup> day of the month, and a security deposit of \$450 being paid by the tenants to the landlord. The written tenancy agreement shows the tenancy would continue after the date of the fixed term, on a month-to-month basis.

The rental unit is located in a multi-unit apartment building.

Pursuant to the Rules, the landlords proceeded first in the hearing and testified in support of issuing the tenant the Notice. The Notice was dated November 26, 2020, was served to the tenants by personal service that day, and listed an effective end of tenancy of December 31, 2020.

The causes listed on the Notice alleged that the tenants or persons they permitted on the property seriously jeopardized the health or safety or lawful right of another occupant or the landlord and put the landlord's property at significant risk, and has caused extraordinary damage to the unit or property.

In support of their Notice, the landlord submitted that the issue causing the landlord to serve the Notice to the tenants concerned a problem with a cockroach infestation in the tenant's rental unit, with the tenant's lack of cooperation in the treatment.

The agent, PB, said that she was notified by the tenants of a cockroach problem in June 2020, and when she attended the rental unit, she was petrified at its condition. There were cockroaches all over the unit, there were dirty dishes with food in the sink and countertops and open garbage, according to PB.

PB said she immediately arranged for a pest control company to visit and treat the rental unit. The tenants were given instructions to prepare the rental unit and they failed in the preparation.

The landlord said that the tenant was advised to prepare his unit for the treatment, on multiple occasions, and the tenants have failed to cooperate. The landlord submitted further that the tenants were warned to clean their unit multiple times and that the sanitation did not improve, which prevented the pest control company from performing a proper treatment. The lack of cooperation was ongoing for several months prior to the Notice being issued, according to the landlord.

PB said that the cockroach infestation in the tenants' rental unit caused cockroaches to enter six other adjoining apartments, which caused one other tenant to vacate.

PB said she never heard from the tenants again about the cockroach infestation until November 2020, at which time it was discovered that there was an ongoing infestation.

***The landlord submitted a summary from the pest control company in 2020, as follows:***

The timeline provided that on June 24<sup>th</sup>, they observed little preparation and proper sanitation. Monitors were placed in the rental unit.

On November 25<sup>th</sup>, a high infestation was noted, and hundreds to thousands of cockroaches were seen in the rental unit. The tenants were advised to perform a deep clean. The report indicated that the neighbouring unit had only a couple of cockroaches.

On November 27<sup>th</sup>, the rental unit showed minimal preparation, vacuuming only, lots of clutter still present. The pest control company dusted in areas they could access despite the clutter and noted high cockroach activity.

On that day, there was very low activity in adjoining units.

On December 7<sup>th</sup>, the rental unit appeared to be the primary source of the cockroaches, and no further prep work was done. The pest control company recommended aggressive treatment. Cockroaches were observed coming out of the rental unit from under the door and a large number was seen within the electrical panel box.

On December 16<sup>th</sup>, no preparation was done as there was lots of clutter and very little cleaning done. The monitoring boards were full of cockroaches.

In summary on this report, the pest control company said that when residents are not able or are unwilling to properly prepare their homes for pesticide treatments it can hinder eradication, as well as affect other neighbouring suites, who would otherwise have zero cockroaches. The various reports show that the tenants here had unsatisfactory sanitary conditions and did not follow the recommendations. The presence of cockroaches in a multi-unit building can have a direct and negative impact on fellow residents, according to the report.

The landlord also submitted statements from many other tenants in the residential property. The tenants that were not adjoining indicated they had no cockroaches in their units. The letters from the tenants adjoining the rental unit indicated they had some cockroaches, and had observed cockroaches from the rental unit. The letters also described that they were required to undergo extensive preparation for their rental units, at a great imposition of their time.

The landlord also submitted multiple invoices and reports from the pest control company, showing many visits to the rental unit and residential property.

The landlord submitted that they had to take this action of serving the tenants a Notice, due to the multiple number of complaints from other tenants.

#### **Tenant's response –**

The tenant, MM, said that there is poor communication with the agent here, PB, and that she has engaged in a course of “revenge and hatred”, claiming that he is experiencing racial and religious discrimination.

The tenant said that PB has poor communication skills and that he has never had these issues before, despite having lived in the rental unit for years. The tenant said that he believes PB is taking revenge, as he had brought complaints against her.

#### **PB's rebuttal –**

PB said she has worked on the property for nine years and categorically denied disrespecting the tenants. PB said she has nothing against the tenants and is only doing her job.

## Analysis

Upon review of the One Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of section 52 of the Act and I find that it was served upon the tenants in a manner that complies with section 89(1) of the Act.

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove the tenancy should end for the reason(s) indicated on the Notice. Where more than one reason is indicated on the Notice the landlord need only prove one of the reasons. The burden of proof is based on the balance of probabilities, meaning the events as described by one party are more likely than not.

Section 47(1)(d)(ii) and (iii) of the Act authorizes a landlord to end a tenancy if the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property or put the landlord's property at significant risk.

Section 47(f) of the Act authorizes a landlord to end a tenancy if the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property.

Section 28 of the Act states that all tenants are entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the Act; use of common areas for reasonable and lawful purposes, free from significant interference.

After careful consideration of the foregoing relevant written and oral evidence, and on a balance of probabilities, I find as follows:

Section 32 of the *Act* addresses the landlord and tenant's obligations to repair and maintain the rental unit. The landlord bears the cost and administrative burden of arranging for treatments and the tenant has the burden of preparing the rental unit for those treatments and the discomfort of living through the infestation and treatment.

When reviewing the evidence of the landlord, I find that the landlord submitted sufficient evidence to support their Notice. In reaching this conclusion, I look to the landlord's documentary evidence, which included a number of pest control company reports and

inspections. These numerous reports show that the tenants failed to properly prepare the rental unit for treatment, despite being given appropriate written instructions, and that their actions, such as leaving dirty dishes and open garbage about the rental unit, caused the cockroach infestations to multiply. I find this evidence to be consistent, compelling, and convincing.

I also find the other tenants' letters to be persuasive. Some letters were from tenants in non-adjointing units, who stated they have never had cockroaches in their apartments. Other letters were from tenants in the adjoining units, who described that they have had cockroach activity in small numbers, which caused them to have to prepare their rental units for treatments, as great inconvenience. After the treatments, the cockroaches were eradicated. Others said they observed cockroaches coming out of the tenants' rental unit.

From my reading of the evidence, I find that the pest control company could not successfully treat the rental unit, due to the lack of preparation by the tenants and the constant presence of dirty dishes with food and open garbage.

Overall, I favored the landlord's evidence as it was consistent, credible, and supported by documentary evidence which included reports from the pest control company and multiple other tenants living in the residential property. The tenant's submissions were inconsistent as he failed to provide any explanation as to why there were thousands of cockroaches in the rental unit. Additionally, the tenants never specifically denied leaving the dirty dishes or open garbage in the rental unit.

Also, the tenants did not deny receiving the written pest control inspection and treatment notices or the preparation instructions.

For the above reasons, I find the landlord submitted sufficient evidence to show that the tenants have seriously jeopardized the health or safety or lawful right of another occupant by causing a cockroach infestation and not cooperating with the treatments paid for by the landlord.

I find the landlord was left with no choice but to issue these tenants the Notice, to preserve their other tenants' health and safety and their right to quiet enjoyment.

As I have found the landlord has proven at least one of the causes they listed on the Notice, it was not necessary to consider the other listed causes.

Conclusion

I dismiss the tenants' application requesting cancellation of the Notice, without leave to reapply, as I find the One Month Notice valid, supported by the landlord's evidence, and therefore, enforceable.

Under Section 55(1)(b) of the Act, if a tenant's application to cancel a Notice has been dismissed, I must grant the landlord an order of possession.

I find that the landlord is entitled to and I therefore grant an order of possession for the rental unit effective **two (2) days after service on the tenants.**

The order of possession is included with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after it has been served upon them, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenants are cautioned that costs of such enforcement, such as bailiff fees for removal, are recoverable from the tenants.

As the tenancy is ending, I **dismiss** the remainder of the tenants' application, without leave to reapply, as those issues relate to an ongoing tenancy.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 23, 2021

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Residential Tenancy Branch