



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

The tenant filed an Application for Dispute Resolution (the “Application”) on January 7, 2021 seeking an order to cancel the One Month Notice to End Tenancy (the “One Month Notice”) for cause. Additionally, they applied for reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on April 12, 2021. In the conference call hearing I explained the process and offered each party the opportunity to ask questions.

The tenant and landlord 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 and the tenant’s prepared evidence. The tenant likewise confirmed they received the prepared evidence of the landlord. On this basis, I proceeded with the scheduled hearing after having each party affirm an oath.

### Issue(s) to be Decided

Is the tenant entitled to a cancellation the One Month Notice?

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

Is the tenant entitled to recover the filing fee for this Application?

## 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 landlord provided a copy of the most recent tenancy agreement signed by the parties on November 29, 2017. The tenant stated they were paying the rent amount of \$1,850 – this includes \$100 each month as of April 2020, as repayment of an amount owing. The landlord provided that the amount of rent is \$1,845, with the inclusion of extra payments for the missed April 2020 rent.

The landlord provided a copy of the One Month Notice. This is dated December 27, 2020. The landlord indicates on the form that they served the tenant by attaching a copy on the door of the rental unit. This was on December 27, 2020. In the hearing the tenant stated they received this document “two or three days after it was attached” when they returned from travel.

The One Month Notice gives the following reasons for service of this document:

- ☐ Tenant has allowed an unreasonable number of occupants in the unit . . .
- ☐ 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.
- ☐ 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 or the landlord

The landlord spoke to the reason for issuing the One-Month Notice in the hearing. They referred to the documents they forwarded to the tenant at various points in the tenancy. They gave a final notice to the tenant on November 17, 2020. A copy of this notice in the evidence lists 7 points; these are the tenant’s breaches of the tenancy agreement. Points include: “loud music, singing, yelling – parties – disturbing several other tenants who have complained the building manager in writing (last 6 months).” Also: “violence against unauthorized person living in the unit”. And: “police attending the noise and violence situation in the unit . . .at least two times. . .”

A note in the evidence dated December 8, 2020 shows the landlord advising the tenant of loud music and giving a reminder of an 11:00 p.m. timeline.

In their evidence, the landlord provided a timeline started from December 2019. This involves other building tenant complaints about incidents that are listed on the final warning document. This is for incidents where “Other tenants have been calling police several times in this period.” Prior to the final notice, the landlord provided four written notices. One of these warnings contains the notation: “if you have any question please call me or knock on my door”.

The landlord also included other tenants’ written complaints. They also set out that the complaints continued after the final notice, into December 2020 and into January 2021 with four calls to police because of the noise. In the hearing the landlord set out the structure of the building and explained where the tenant’s unit lies in relation to other units that complained about noise and other conduct.

In answer to this, the tenant provided the history of a prior renovation in the building that required a vacancy. They pleaded that there was improper communication from the landlord on these issues related to the One-Month Notice: “handwritten letters under the door do not constitute communication”, being “an awkward way of doing business.” They reiterated that they never had the chance to speak with other tenants or the landlord about these letters. In answer to a direct question, the tenant confirmed they had received letters outlining other tenants and landlord concerns and complaints.

The tenant also questioned why service of the One-Month Notice occurred on December 27 and whether it in fact was the landlord who attached this document to the door of the rental unit.

The landlord responded to this to state the tenant never provided a contact phone number despite repeated requests. Despite this, their communication to the tenant was there, and “the tenant always knows what’s going on.”

### Analysis

The *Act* s. 47 is the provision that deals with unreasonable disturbances by a tenant, or actions that jeopardize the health or safety or lawful right of another occupant/landlord. I find these are the primary grounds the landlord indicated on the One Month Notice as cause to end the tenancy.

Section 52 states:

- 52** In order to be effective, a notice to end a tenancy 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) . . . state the grounds for ending the tenancy,  
. . .and
  - (e) when given by a landlord, be in the approved form.

In this hearing, the onus is on the landlord to prove they have cause to end the tenancy. The landlord spoke to cause to end the tenancy in oral testimony. Their evidence includes pieces they gave to the tenant throughout the last year; these include the issues affecting other tenants.

The tenant confirmed they received information from the landlord about these issues. I find they were aware that other tenants made complaints – the landlord’s evidence is irrefutable that they informed the tenant here of other occupants’ complaints about noise and other issues. Further, I give weight to the landlord’s evidence that police attended on more than one occasion to answer calls related to the noise from the tenant’s unit. In sum, these issues were known to the tenant prior to the landlord’s issuance of the One-Month Notice on December 27, 2020. The tenant had all required information to properly dispute the One-Month Notice.

The tenant took issue with the way in which the landlord conveyed complaints to them in written format. This does not negate the landlord’s evidence that the information was provided to the tenant in a timely manner, in specific regard to each instance of complaint or concern. I find it was the tenant who limited communication by not providing their phone contact information to the landlord and insisting only on email communication. There is evidence that the landlord asked the tenant to contact them to discuss matters. The point made by the tenant here is largely irrelevant.

The tenant also mentioned possible ulterior motives for the landlord’s reason for issuing the One-Month Notice. There is no sound reference to fact or other interactions with the landlord to support their suspicion here. The past renovations undertaken by the landlord are irrelevant to these issues.

In sum, I find the tenant was aware of the concerns of other residents and the landlord’s issue in dealing with those complaints. The tenant was also afforded full opportunity to

discuss the complaints and issues with the landlord; however, they did not do so. The landlord provided sufficient evidence here to uphold the One-Month Notice.

The *Act* s. 55(1) states that if a tenant applies to dispute the landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld, the landlord must be granted an order of possession if the document complies with all the requirements of s. 52 of the *Act*. On my review, the One-Month Notice here contains all the required elements set out in s. 52.

By this provision, I find the landlord is entitled to an Order of Possession and the tenancy shall end. The tenant's Application here is dismissed without leave to reapply.

Because they were not successful in their Application, the tenant is not entitled to reimbursement of the Application filing fee from the landlord.

### Conclusion

Under s. 55(1) and 55(3) of the *Act*, I grant an Order of Possession effective two days after service of this Order on the tenant. 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 s. 9.1(1) of the *Act*.

Dated: April 13, 2021

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Residential Tenancy Branch