



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC MNDCT FFT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

- to cancel two 1 Month Notices to End Tenancy for Cause dated January 17, 2021 (1 Month Notice A) and March 16, 2021 (1 Month Notice B),
- for a monetary claim of \$3,235.00,
- recovery of the cost of the \$100.00 filing fee.

The tenant, an advocate for the tenant, NH (advocate), the landlord and a support person for the landlord, NW (support) attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The parties were affirmed, with the exception of the support person who did not testify. The parties were provided with the opportunity to submit documentary evidence prior to this hearing. I have reviewed all oral and documentary evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Neither party raised concerns regarding the service of documentary evidence or the application. As a result, I find the parties were sufficiently served in accordance with the Act. Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters

Rule 2.3 of the RTB Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated three matters of dispute on their application, the most urgent of which is the application to cancel 1 Month Notice A and 1 Month Notice B. 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 tenant's request to cancel 1 Month Notice A and 1 Month Notice B and the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's application, the monetary claim for \$3,235.00 is dismissed, with leave to re-apply.

In addition, the parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. Furthermore, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

Also, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to applicable party.

### Issues to be Decided

- Should either of the two 1 Month Notices be cancelled?
- Is the tenant entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on November 1, 2020 and is scheduled to revert to a month to month tenancy after November 1, 2021.

The tenant confirmed that they received 1 Month Notice A on January 18, 2021 and filed to dispute it on January 26, 2021. 1 Month Notice A lists the one cause as:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

The tenant disputed 1 Month Notice A on January 16, 2021 within the 10-day timeline provided for under the Act. The effective vacancy date indicated on 1 Month Notice A is listed as February 28, 2021.

The Details of Dispute portion of 1 Month Notice A states the following:

Defamation on public neighborhood website. Since move in date Nov 4, 2020, over 250 text messages, 40+ emails, phone call at 5:30 am for non-emergency Complaints and demands for immediate assistance for trivial reasons such as: cannot close window, toilet flushes too slowly, contact other tenant for access to their space, request to pick up garbage tenant left out unsecured, not available when assistance was requested, calls for non-existent issues (ie. "hot water tank doesn't work") tenant had just used too much. A warning letter was issued dictating she is not to contact me directly which she violated.

[Reproduced as written]

The tenant confirmed that they received 1 Month Notice B on March 18, 2021 and filed to dispute it on March 29, 2021. 1 Month Notice B lists three causes as:

1. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.
2. Tenant has not done required repairs of damage to the unit/site/property.
3. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Dispute are very faint and hard to read on 1 Month Notice B submitted in evidence.

Regarding the one cause listed on 1 Month Notice A, the landlord stated that the tenant defamed the landlord by posting the landlord's name on the NextDoor app, which is a public social media app, which the landlord saw was posted by the tenant in January 2021.

The landlord writes in their evidence:

On January 12 [tenant] came home after a trip and said her hot water “wasn’t working”. She said she would be home the next morning for Mike to go over and see what was going on—even though he is not a plumber, he is an experienced handyman and after paying so much for the plumbers already, we thought it best to make sure there was a real problem before getting someone to come out again. Mike went over three times that day and each time she was not home—she kept emailing MJ to say she had decided to stay in town a bit longer. When she was finally home in the late afternoon, Mike determined the hot water worked fine, [tenant] had simply used it all the previous evening. Later that night at about 9pm she emailed MJ to say the propane fireplace would not light. I called a gas tech and he said he could be there Monday. Despite this, [tenant] went on a public online forum called NextDoor and posted...

[Reproduced as written except for anonymizing name of tenant]

On the NextDoor screenshots submitted in evidence the full name of the tenant is listed and reads in part:

**Help with flooded Basement.** The cottage I rent has been Flooding since December 21/20 and the Landlady [first and last name of landlord] refused to hire anyone and has only put on noisy fan and a small dehumidifier in the basement that runs 24/7 and there is still water in the basement. Any suggestions Neighbours??

[Reproduced as written except for anonymizing name of landlord]

**Gas fitter?** I need a gas fitter to start the propane fireplace pilot Light. The Landlady [first and last name of landlord] refuses to do it. Anyone in the neighbourhood??

[Reproduced as written except for anonymizing name of landlord]

Yes there is a hose running from the dehumidifier however it’s been 3 ½ weeks and there’s still water there on the floor because it’s flooded at least three times now every time it rains a lot seems like the perimeter drain is plugged and [first and last name of landlord] doesn’t want to fix anything  
Is a sump pump something that you rent?

[Reproduced as written except for anonymizing name of landlord]

The landlord writes in response the following:

These statements were completely false. We addressed the flooding within hours of being notified and told [tenant] that an older dirt/cinderblock foundation would do this in the event of the kind of heavy rains which we experienced repeatedly in December and January. It was explained to [tenant] that as long as the drain was clear, the basement was working as designed and we could come and check on the dehumidifier and fan anytime she needed. Again, the basement is a non-living area of the house, was never designed or advertised as such. [Tenant] was told this multiple times but she still decided to publicly lie and defame me.

[Reproduced as written except for anonymizing name of tenant]

A third party, NB on the NextDoor app responded to the tenant and wrote:

This isn't a forum where it is acceptable to name shame people regardless of the situation. It should be used for assistance from the friendly neighbors around. If there is such an issue with the living conditions and landlord, I would suggest finding a new place. This is the second post in 2 hours that you have mentioned your landlords name in a derogatory way.

The tenant was asked why they publicly named the full landlord's name on a public NextDoor app and the response was "I don't know". In the tenant's documentary evidence, it reads in part:

I sincerely regret that I gave my landlady's name in my postings. I had not meant to be defamatory, and do not believe I was. I was just looking for advice, as my landlady seemed to doubt my need for help lighting the fireplace, and did not think that the basement needed more cleaning up.

A person on the app suggested I should not give a name, and I immediately took my posts completely down. They might have been up for an hour.

...A post can be seen by other NextDoor App members...

It was at this point in the hearing that the parties were advised that I found the posting of the landlord's name to be unreasonable and I upheld the 1 Month Notice, which I will now address in detail below.

As a result, I found it was not necessary to consider other evidence from the parties or 1 Month Notice B further.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the actions of the tenant to be unreasonable and that posting the full name of the landlord on the public NextDoor app served no other purpose but to defame the landlord. I find the tenant's response that they did not believe naming the landlord was defamatory to be troubling as the tenant appears not to understand the impact of publicly accusing or shaming someone on social media. In fact, a third party, NB responded to the post to remind the tenant that it was inappropriate and that two posts were made within 2 hours by the tenant, both naming the landlord. Therefore, I find the tenant's actions by publicly naming the landlord on the NextDoor app and accusing them of something that the landlord vehemently denies, to support significant interference with and unreasonably disturbing the landlord as listed in the 1 Month Notice A. As a result, I find the landlord has provided sufficient evidence to prove that 1 Month Notice A is valid and accordingly, I dismiss the tenant's application in full, without leave to reapply.

I find it is not necessary to consider any further evidence before me or 1 Month Notice B as I find that the actions of the tenant were purposely vexatious. Furthermore, I find the tenant's response of "I don't know" in terms of why they posted the landlord's name on the NextDoor app lacks credibility. I find that it is more likely than not that the tenant named the landlord due to the acrimonious relationship between the parties.

Section 55 of the Act applies and states:

#### **Order of possession for the landlord**

**55(1)** 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.**

[emphasis added]

I have reviewed 1 Month Notice A and I find that it complies with section 52 of the Act. Therefore, I grant the landlord an order of possession pursuant to section 55 of the Act **effective April 30, 2021 at 1:00 p.m.** I have used this date as the parties confirmed during the hearing that money for use and occupancy for April 2021 has been paid. I find the tenancy ended on February 28, 2021, which was the effective vacancy date listed on 1 Month Notice A.

I do not grant the filing fee as the tenant's application has no merit.

#### Conclusion

The tenant's application has no merit and is dismissed in full, except the portion that was severed as described above. 1 Month Notice A issued by the landlord has been upheld. The tenancy ended on February 28, 2021.

The landlord has been granted an order of possession effective April 30, 2021 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia. The tenants may be held liable for the costs associated with enforcing the order of possession. The filing fee is not granted as noted above.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 21, 2021

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Residential Tenancy Branch