



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Vancouver Native Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, PSF

### Introduction

The tenant filed an Application for Dispute Resolution (the “Application”) on March 8, 2021 seeking an order to cancel the One Month Notice to End Tenancy (the “One Month Notice”) for cause. Additionally, they seek the landlord’s provision of services or facilities required by the tenancy agreement or law. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 4, 2021. In the conference call hearing I explained the process and offered each party the opportunity to ask questions.

The tenant and the landlord attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing. Additionally, the tenant confirmed they received the prepared evidence of the landlord in advance of the hearing. The tenant did not prepare documentary evidence for this hearing.

### Preliminary Matter

The *Residential Tenancy Branch Rules of Procedure* permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. Rule 2.3 describes ‘related issues’, and Rule 6.2 provides that the Arbitrator may refuse to consider unrelated issues. It states: “. . . if a party has applied to cancel a Notice to End Tenancy or is seeking an order of possession, the arbitrator may decline to hearing other claims that have been included in the application and the arbitrator may dismiss such matters with or without leave to reapply.”

At the outset, I advised both parties of the immediate issue concerning the One-Month Notice. The matter of urgency here is the possible end of this tenancy. I find the most important issue to determine is whether or not the tenancy is ending, based on any of the notices to end tenancy issued by the landlord.

For this reason, I dismiss the tenant's request for provision of services, with leave to re-apply. This means the tenant may file a new and separate application to address this or any other issues.

### Issue(s) to be Decided

Is the tenant entitled to an order that the landlord cancel the One Month Notice?

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

### 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 presented that they issued the One-Month Notice on February 26, 2021. This was for the end-of-tenancy date for March 31, 2021. They presented in the hearing that they provided checked reasons on the second page of the document. On page 3, they provided the details that the tenant received a verbal warning for the issue raised, as well as 2 previous warning letters.

The landlord explained the background reasons for which they issued this One-Month Notice:

- the rental unit which the tenant here occupies was identified by other building residents as that which was accommodating a trespasser in the building
- this trespassing by a single identifiable individual commenced in earlier 2020 and continued through to 2021
- this involved police visits based on other residents' calls; however, those residents were not forthcoming in assisting the police, having concerns for their own safety
- when questioned by the police, the trespasser identified the tenant's own rental unit as being their home
- additionally, the trespasser was seen entering the tenant's rental unit via the balcony door

- in a meeting with the tenant on this issue, the tenant allegedly stated that “I’m not the only one” who was accommodating this trespasser – from this, the landlord concludes that the tenant admitted their responsibility.

In their documentary evidence, the landlord provided a warning letter they gave to the tenant dated February 8, 2021. This was following a meeting on February 4, 2021. Citing the tenancy agreement, the landlord informed the tenant that they feel the tenant knows the trespasser, invited that person to the property and blocked doors which allowed that person entry.

After this, there was a further incident on February 10, and on February 14, 2021 the landlord gave a final warning letter to the tenant. On February 26 the landlord issued the One-Month Notice. In the hearing, the landlord stated that there were no further incidents since the final one on February 10.

The tenant raised the issue of racial profiling, to state that the primary reason they were subject to the investigation and subsequent notice to end tenancy was because of their similar ethnicity to that of the trespasser. They submit the landlord was making this assumption and reached a false conclusion because of this.

The tenant also strictly denied knowing this trespasser, and the tenant’s child who attended the hearing stated their interaction with the trespasser one time where they told that person to leave. They also drew attention to the last incident being on February 10, which precedes that of the One-Month Notice, therefore showing the problem had ended before the landlord issued the document to the tenant.

### Analysis

The *Act* s. 47 is the provision that deals with the landlord ending the tenancy for many different conditions. Here, the landlord ostensibly issued the One-Month Notice for reasons involving the tenant’s conduct that causes disturbance to the functioning of the property, and this affected other residents in the building, and imposed large cleaning costs.

In deciding on the end of tenancy, and whether the reasons for ending the tenancy are valid, the onus lies with the landlord to provide ample proof that the reasons are valid. More basically, regarding the validity of the notice to end tenancy, s. 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 landlord did not submit a copy of the One-Month Notice. Because of this, I cannot verify if the document is correct, containing the mandatory information that the *Act* specifies.

The *Act* requires that notices to end tenancy by the landlord be in the approved form. The landlord did not provide a copy of the One-Month Notice; therefore, I cannot verify this. The landlord has not met the burden of proof to show the One-Month Notice is valid; therefore, I cancel that One-Month Notice. It is of no legal effect.

With the One-Month Notice cancelled, the tenancy will continue and there is no order of possession.

### Conclusion

For the reasons above, I order that the One-Month Notice issued on February 26, 2021 is cancelled and the tenancy remains in full force and effect.

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: June 7, 2021

---

Residential Tenancy Branch