



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, MNDCL-S, MNDL-S, FFL  
                             CNC, PSF, DRI  
                             CNR-MT, PSF, OLC  
                             CNC

### Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession for cause; a monetary order for damage to the rental unit or property; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The tenant has filed 3 applications. The first seeks an order cancelling a notice to end the tenancy for cause; an order that the landlord provide services or facilities required by the tenancy agreement or the law; and disputing a rent increase.

The second application filed by the tenant seeks more time than prescribed to dispute a notice to end the tenancy; an order cancelling a notice to end the tenancy for unpaid rent or utilities; an order that the landlord provide services or facilities required by the tenancy agreement or the law; and for an order that the landlord comply with the *Act*, regulation or tenancy agreement.

The final application filed by the tenant seeks an order cancelling a notice to end the tenancy for cause.

The landlord and the tenant attended the hearing, and each gave affirmed testimony. The landlord also called 3 witnesses who gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

At the commencement of the hearing I explained to the parties that the Rules of Procedure require that multiple applications contained in a single application must be related. The parties agreed that the primary applications relate to notices to end the tenancy given by the landlord. Therefore, the landlord's applications for monetary orders and for an order permitting the landlord to keep the security deposit are dismissed with leave to reapply. Similarly, the tenant's applications for an order that the landlord provide services or facilities required by the tenancy agreement or the law and for an order that the landlord comply with the Act, regulation or tenancy agreement, and disputing a rent increase are dismissed with leave to reapply.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided relevant to notices to end the tenancy has been reviewed and is considered in this Decision.

#### Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established that either of the One Month Notices to End Tenancy for Cause were issued in accordance with the *Residential Tenancy Act*?
- Should the tenant be permitted more time than prescribed to dispute a notice to end the tenancy?
- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?

#### Background and Evidence

**The landlord** testified that this month-to-month tenancy began on January 3, 2021 and the tenant still resides in the rental unit. There is no written tenancy agreement, however rent in the amount of \$600.00 per month is payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$300.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a room in a house with 6 other tenants, each renting a room with common areas for all tenants. The landlord does not reside on the rental property.

On March 17, 2021 the landlord caused the tenant to be served with a One Month Notice to End Tenancy for Cause, which was given to another adult tenant at the rental

unit, who gave it to the tenant personally with a witness present. A copy has been provided for this hearing and it is dated March 17, 2021 and contains an effective date of vacancy of April 18, 2021. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed 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 damage the landlord's property;
- 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;
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

With respect to the first reason, the landlord testified that there were 5 police noise complaints. Also, the tenant has disturbed another tenant by continually knocking on his door even though he's been asked not to do so, and despite a Do Not Disturb note. The tenant also threatened to beat him up and made racist remarks to him and to another tenant. Police reports have also been provided for this hearing.

The tenant also caused an ant problem in the rental home by leaving a glove covered in a sugary substance in the bathroom for 3 days. The bathroom is very close to front of house and the tenant left food in toilet without flushing. All tenants are afraid of him.

The washer stopped working, and another tenant tried to fix it and moved it away from the wall. After midnight, the tenant decided to wash clothes and turned on all of the taps and water ran everywhere. It would have been clear to him that the water wasn't connected, and he would have had to reach behind the machine to turn the taps on. The entire wall on one side in the lower level collapsed. The landlord had to repair the wall and water damage, which is not yet completed. Photographs have also been provided as evidence for this hearing.

The landlord testified that there is no illegal activity to allege. However, the tenant accepted mail for another tenant, but didn't pass it on for 2 months. The mail package contained a Wi-Fi booster or something similar, and when the other tenant found the box that it came in, he asked the tenant to give it back.

The tenant also installed and changed locks without the landlord's permission. He installed one in stairway between units and changed the bathroom lock without telling anyone. The tenant wanted to install another on his room door, and the landlord agreed,

but the landlord asked the tenant at least 12 times and still has not provided a key to the landlord.

Other notices to end the tenancy have also been provided for this hearing, however not all pages of any of them. A 10 Day Notice to end Tenancy for Unpaid Rent or Utilities is dated April 17, 2021 which contains an effective date of vacancy of April 18, 2021. Only the 1<sup>st</sup> page of the 3-page notice has been provided for this hearing, so the reason for issuing it is unknown. Another is a One Month Notice to End Tenancy for Cause dated February 9, 2021 which contains an effective date of vacancy of March 12, 2021. It was posted to the door of the rental unit on February 9, 2021. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed 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 seeks an Order of Possession and relies on the One Month Notice to End Tenancy for Cause dated March 17, 2021.

**The landlord's first witness** was affirmed to well and truly interpret a statement made by another occupant of the rental home. It states, in part, that the tenant continually disturbs the occupant by knocking on his door despite being asked not to. When the witness would answer, the tenant said nothing. The tenant texts the witness, is loud, disturbs others, watches TV loudly, which has been recorded by the witness, and runs loud music at 4:00 a.m. Requests to stop have been ignored and police have been called on several occasions.

It also states that the witness had to clean the toilet after the tenant left a sugar covered glove causing an ant infestation. He steals food, and used the broken washer causing water damage. The tenant also changed the door-knob in the bathroom without telling other occupants or the landlord.

**The landlord's second witness** (MZ) testified that the witness is also an occupant and helped to clean up water after the washer incident, which has also caused mold in the witness' room.

The tenant also sent the witness text messages describing the people living in the lower level of the rental home as rats.

Police have been there many times due to noise complaints, and the witness gave a video of the noise to the landlord.

**The landlord's third witness** (CL) testified that she is the landlord's sister and also a tenant, occupying a room in the upper level of the rental home. The witness pays rent to the landlord, and testified that the landlord does not reside on the rental property.

The tenant plays music and movies loud when he gets home around 8 or 9 p.m. but the witness told the tenant that the witness starts work at 4 or 5 a.m. and is a fulltime university student. The tenant turned it down the first time, but on the second occasion at about 9:30 p.m. the tenant played it loud again. The witness knocked to have him stop but he wouldn't respond so the witness called police. The tenant still didn't stop the loud TV and police told the witness to give a warning and call police again and he'd get a fine. The witness called police 4 times. The witness would knock on the tenant's door 2 or 3 times asking to turn it down before calling police. The third time, the tenant called the witness some very profane names and said, "Fuck the police." Noise could be heard through the front door and kitchen loudly.

The witness further testified that on numerous occasions the witness has had to clean the toilet that the tenant had urinated on.

The witness was present on the landlord's behalf when an exterminator arrived for the ant problem, and the witness paid him. The tenant admitted to putting gloves there and food in toilet.

The witness had ordered a Wi-Fi extender which arrived with 2 in a package at a value over \$500.00. The witness got ahold of Canada Post, but found the box tucked away in the living room and 1 was missing. A few hours later the tenant said the package was already open and gave the other one back to the witness. The package was addressed to the witness.

The washer was leaking a bit of water and another tenant was going to fix it and placed an order for a part. The tenant came out around 2 a.m. and turned on the washer, which was out of the way, but the tenant pushed it back. The tenant said he cleaned it, and any water downstairs was not his fault.

The tenant hasn't been at home for 6 days at a time. He should be taking his medication, and the fellow who brings it said the tenant had to take it every day. Numerous times he hasn't taken his medications.

The witness wrote a DO NOT DISTURB sign for another tenant's door, but the tenant crossed out the NOT and underlined DO. The witness changed it to DON'T, and the tenant changed it again.

The tenant and witness share the bathroom, and the tenant changed the lock. The witness was concerned for her safety, and now can't lock the door. Then the tenant refused to talk to the witness about it, and has walked in on the witness twice.

The witness served the One Month Notice to End Tenancy for Cause with another tenant witnessing it.

**The tenant** testified that the walls in the rental home are very thin, and the tenant can hear other tenants on both sides talking. His TV and music are only on until 10:30 or 11:00 p.m. at the latest. Police told the tenant that he had to turn the noise down by 11:00 p.m.

The tenant has a mental disability and testified that his medications have gone missing.

The tenant agrees that he caused flooding from the washer, but not mold; that's on the other side of the house.

The bathroom door was constantly locked, so the tenant changed the lock back to the old one. It should be a push-lock so that it can be opened.

The tenant doesn't trust anyone, except the landlord, but the landlord doesn't live there, and the tenant doesn't know why he didn't give the landlord a key to his room.

The tenant didn't open anyone's mail. The other occupant doesn't speak English well, and he said he didn't know what was in the package, and the tenant tried the Wi-Fi extender, but it didn't work. When the other tenant asked for it, the tenant gave it to her right away.

### Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, which can include the reason(s) for issuing it. In this case, the landlord relies on the One Month Notice to End Tenancy for Cause dated March 17, 2021, and the reasons for issuing it are in dispute.

I accept the undisputed testimony of the tenant that he has a mental disability, however the landlord has an obligation to provide quiet enjoyment to all tenants in the rental home.

The tenant does not dispute causing the flooding in the rental home, and does not dispute changing the lock to the bathroom door or to his own room, and has no reason for not providing a key to the landlord.

The witnesses have given testimony of interferences and disturbances caused by the tenant. The tenant is of the opinion that he can make noise until 11:00 p.m. because that's what the police told him. However, I have also reviewed the evidentiary material, and the tenant has sent rude text messages with a lot of foul language and disturbing threats of harming others.

In the circumstances, I am satisfied that the landlord has established that the tenant has significantly interfered with or unreasonably disturbed other occupants, and has caused extraordinary damage to the rental home. I have reviewed the One Month Notice to End Tenancy for Cause dated March 17, 2021 and I find that it is in the approved form and contains information required by the *Act*. Therefore, I dismiss the tenant's application to cancel the Notice, and I do not find it necessary to address each of the other Notices given to the tenant. I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I order the landlord to keep that amount from the \$300.00 security deposit held in trust as full recovery.

### Conclusion

For the reasons set out above, the tenant's applications to cancel notices to end the tenancy are hereby dismissed.

I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order the landlord to keep \$100.00 of the security deposit held in trust as recovery of the filing fee.

This order is final and binding and may be enforced.

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: June 09, 2021

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Residential Tenancy Branch