



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

The tenant disputes a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 47(4) of the *Residential Tenancy Act* (“Act”).

Both parties, along with the tenant’s mother as a support person, and an advocate for the tenant, attended the hearing on Monday, August 30, 2021 at 11:00 AM. It should be noted that there is an advocate listed on the tenant’s application, though that advocate did not attend the hearing.

No service issues were raised, and Rule 6.11 of the *Rules of Procedure* was explained. It was explained that the tenant was unable to prepare his evidence in time for the hearing and ultimately did not submit anything (other than a copy of the Notice).

### Issue

Is the tenant entitled to an order cancelling the Notice?

### Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issue of this dispute, and to explain the decision, is reproduced below.

The landlord testified that the tenancy began on February 1, 2016 and monthly rent (which is paid by BC Assistance) is \$600. A copy of the written Residential Tenancy Agreement along with an addendum was submitted into evidence. The rental unit is one of 16 properties which are described as small, two-bedroom houses; the landlord resides in the large home.

In respect of the Notice, a copy of which was in evidence, the landlord testified that it was served on April 23, 2021. Over the course of four years the tenant has purportedly damaged the outside of the rental unit (a "lot of damage") and has bothered and harassed other tenants on the property. The tenant's mental state has apparently gotten worse and worse. The tenant has been verbally abusive to both the landlord and the other tenants, and to the caretaker.

The landlord seeks to end the tenancy primarily for the safety of the 19 other tenants and the landlord. Most of the other tenants are senior citizens and the landlord would, in addition to ensuring the place is safe, like to keep it a quiet place. The landlord is worried about the tenant hurting himself or others. "Safety is the biggest issue," she reiterated. However, there are the other issues of property damaged. Apparently, the tenant drove his car into another tenant's rental unit, causing damage. At the end of the day, the landlord believes that the tenant "should be placed somewhere where he can get help."

Submitted into evidence by the landlord is a 22-page PDF package which includes a written submission from the landlord describing various incidents, a letter authored by the caretaker, a letter from tenant (T.G.), a letter from tenant (J.G.), a letter from tenant (I.O.). There is a reference to a police incident involving a knife, but no copy of a police report was provided into evidence. None of the other tenants who provided the above-noted letters attended the hearing to testify, and the letters were not notarized.

The tenant testified that he has never put anyone in danger, and that some of the incidents (referred to in the landlord's written submissions) all stem from an incident at his mother's residence. In respect of any police matters, he explained that those matters have been "dropped." Regarding the alleged property damage, the tenant said that there have been a few things over the years that he may have damaged. Yet, he also said that he has put some money into fixing or improving the property; "the place is in great shape," he added. As far as the vehicle being driven into another tenant's cabin, he remarked that it was one incident, and it was an accidental backing in.

The tenant testified that in conversations with the landlord he and she "can get kinda loud," and that they fight but then later make up. He explained that he has issues with anxiety, depression, and schizoid personality disorder. He also explained that due to these issues and problems with communication, things can "get edgy." The tenant then apologized for any issues and said, "sorry there, [landlord], you're a great landlord."

The tenant's mother briefly testified that the reason she called the police on his son was because she needed the police to take the tenant into custody under the *Mental Health Act* in order to have doctors check his medication.

In rebuttal, the landlord testified that it is "not true" that the tenant fixes anything up, and that the tenant simply refuses to follow the rules. Moreover, the damage is in fact more extensive than the tenant has described. And the tenant continues to have issues with his medications and that it is a matter of safety that the tenancy end. In response to the landlord's rebuttal, the tenant testified that there has been no violence between him and any of the other tenants.

At the end of the hearing the pastor spoke. He testified that he has been a friend of the family for twenty-five years. And he said that if the tenant is evicted, he has nowhere to go. The pastor "begged" me to consider this and asked that I have "a heart of compassion" in deciding this matter. Further, he asked that the tenant be given at least a month or two to "get himself together. He needs time to get his head together."

### Analysis

When a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based. In this dispute, the Notice was issued under [section 47\(1\)\(d\)](#) and section 47(1)(e)(i) of the Act. Those sections state that a landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

And:

the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that (i) has caused or is likely to cause damage to the landlord's property [ . . . ]

First, in respect of the various unnotarized written letters of the caretaker and other tenants that were submitted into evidence, given that none of the authors of those letters attended the hearing to corroborate the contents of those letters, I place little evidentiary weight on this evidence. These witness statements are, therefore, not probative of the various matters which may have given rise to the landlord issuing the Notice. Nor, it should be noted, is there a copy of any police report, and, rather strikingly, no documentary or photograph evidence of the alleged damage caused by the tenant. There are frequent references in the landlord's written submission as to what *other* people told her.

From an evidentiary perspective, however, this is considered hearsay evidence and it will not be considered. There is no documentary, audio, or video evidence of the incidents involving loud music. And, while there are frequent references to the tenant's "aggressive behavior" and being "verbally abusive" but there is little in the way of supporting evidence. The tenant denies causing any property damage (or, at least to the extent alleged by the landlord), and he denies that he has ever hurt anyone, that he would hurt anyone, or that there has ever been any violence between himself and others.

When two parties to a dispute provide equally reasonable accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In this case, I find that the landlord has failed to prove, over and above her testimony, that there existed sufficient grounds on which to issue the Notice.

Taking into careful consideration all the oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has not met the onus of proving any of the four grounds on which the Notice was issued. This is not to say, however, that something bothersome may not have occurred, only that the evidence is not sufficient to persuade me to find that the grounds existed for ending the tenancy.

Given the above, it is ordered that the Notice, dated April 23, 2021, is hereby cancelled. The Notice is of no legal force or effect and the tenancy shall continue until it is ended in accordance with the Act.

Conclusion

The tenant's application is hereby granted.

Further, it is ordered that the Notice, dated April 23, 2021, is hereby cancelled. The Notice is of no force or legal effect and the tenancy shall continue until it is ended in accordance with the Act.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: August 31, 2021

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Residential Tenancy Branch