



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding THE BLOOM GROUP and [tenant  
name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

On May 3, 2021, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”).

The Tenant attended the hearing with N.A. attending as her advocate. J.F. attended the hearing as an agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

Prior to addressing issues regarding service of documents, N.A. requested an adjournment because the Landlord’s evidence was received on August 28, 2021 and they did not have sufficient time to review and respond to these submissions. In addition, she stated that the Tenant suffers from a hearing impairment, causing the Tenant to experience difficulty communicating over the phone. She advised that the Tenant had recently seen an audiologist, and they are waiting for a report from this medical professional.

The Tenant advised that she had two appointments in the last month with an audiologist. As her condition has worsened, she recently ordered a device which should

aid her, but she has not received it yet. She stated that she has ongoing concerns with her hearing deficiency and has problems when people talk quickly. She then advised that she required an adjournment because more time was needed to collect evidence and submit a more detailed response to the Landlord's allegations.

J.F. opposed this adjournment request as this appeared to be a delay tactic. He noted that the Tenant submitted a copy of a psychiatrist report on September 2, 2021, as documentary evidence, where it indicated that this assessment was conducted over the phone. This demonstrates that the Tenant has no difficulty communicating in this manner.

The Tenant advised that only the intake was conducted over the phone, but her actual assessment was not. She also confirmed that she did not submit any medical documentation corroborating that she suffered from a hearing condition that would preclude her from being able to use the phone.

When considering these adjournment requests, I find it important to note that the Tenant confirmed receiving the Landlord's evidence on August 28, 2021. As this evidence was received in accordance with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I am not satisfied that an adjournment should be granted under this ground.

With respect to the request for an adjournment because of the Tenant's alleged hearing impairment, I find it important to note that the Tenant exhibited no difficulties or delays in answering questions directed at her as her responses were immediate and forthright. In fact, the Tenant often interjected, without being addressed directly, when another party was speaking, which demonstrated that she exhibited no issues following the participants during the hearing. Furthermore, she acknowledged that she owns a device that she has used as a cellphone for the last few years, and she has no special accessory or attachment that is required to aid her with any hearing impairment. As well, at points during the hearing, she could be heard whispering to N.A. and it would seem reasonable to me that if she had difficulty hearing a person on the phone, communicating over hushed tones would be equally, if not more challenging.

Rule 7.9 of the Rules of Procedure provides the applicable criteria for the granting of an adjournment. I acknowledge that the Tenant claims to suffer from a medical condition that impacts her hearing and her ability to communicate over a telephone. However, I do not find that she has provided any medical documentation to corroborate any hearing impairment or a diagnosis that indicates a necessity for a specialized device to attend a

teleconference. Moreover, when taking these observations above into consideration, and given that the Tenant advised on her own accord that a reason she requested an adjournment was to have more time to build her defense, I find these cause me to be dubious of the truthfulness and reliability of the Tenant's submissions on the whole. This clearly appeared to be an effort to delay the proceeding.

As this hearing pertained to a notice to end the tenancy, I found that adjourning the hearing would have been prejudicial to the Landlord. As such, the Tenant's requests for an adjournment were denied. I also find it important to note that the Tenant was advised that if she believed that she had some concerns with hearing submissions during the hearing, to inform me of it so that it could be repeated. There was no point at any time during the 95-minute teleconference when the Tenant or N.A. raised any concerns about a matter that may have gone unheard or was misunderstood.

N.A. advised that the Landlord was served the Notice of Hearing package and some evidence by registered mail on May 14, 2021 and J.F. confirmed receipt of this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was duly served the Notice of Hearing package.

She also stated that additional evidence was served to the Landlord by registered mail on August 24, 2021. The Tenant then advised that the psychiatrist report was served to the Landlord by email on September 1, 2021 and by hand on September 7, 2021.

J.F. confirmed that the Landlord had received the Tenant's evidence and that he was prepared to respond to it, despite it being served late, contrary to the timeframe requirements of Rule 3.14 of the Rules of Procedure. As such, I have accepted all of the Tenant's evidence and will consider it when rendering this Decision.

J.F. advised that he served the Tenant with the Landlord's evidence by registered mail on August 25, 2021. He stated that N.A. confirmed that the Tenant received this evidence on August 28, 2021. He then stated that she informed him on September 1, 2021 that four videos could not be viewed, that she requested that he put these four videos onto a USB stick, and that he then re-serve them to the Tenant. He testified that he followed these instructions and placed this new USB stick, containing the videos, into the Tenant's mailbox on September 2, 2021.

The Tenant confirmed that she received this USB stick on September 2, 2021 and that she took it to N.A. on September 3, 2021 because she could not view the videos contained on this USB. While she stated that she did then view these videos with N.A., as she received them so late, she was not prepared to respond to them.

During the hearing, I informed the parties that I would reserve judgement about these videos until I render this Decision. However, I find it important to note that during the hearing, the Tenant viewed these videos with N.A. and made direct testimony with respect to the contents of those videos. As noted above, as the Tenant received the Landlord's evidence on August 28, 2021, I am satisfied that this evidence was served in accordance with Rule 3.15 of the Rules of Procedure. Furthermore, as it was apparent that the Tenant had viewed these videos prior to and during the hearing, I am satisfied that the Tenant had ample opportunity to respond to these videos in question. As such, I have accepted all of the Landlord's evidence and will consider it when rendering this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony

of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on November 1, 2016; however, they disagreed with the rent amount that was owed. They did agree that a security deposit of \$174.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

J.F. advised that the Notice was served to the Tenant by putting it in the Tenant's mailbox on April 27, 2021. The reasons the Landlord served the Notice are because the "Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety or lawful right of another occupant or the landlord", and because the "Tenant has not done required repairs of damage to the unit/site/property/park." However, he stated that the Landlord is no longer seeking eviction on this last reason on the Notice. The Notice indicated that the effective end date of the tenancy was May 31, 2021.

He advised that the Notice was served to the Tenant because of her verbal abuse and threatening, violent behaviour targeted towards specific residents of the building. He referenced one video in February 2021 where the Tenant approached a resident and she repeatedly placed her hands in this person's face and over his phone. He stated that this was unprovoked, but the resident had recently started recording all interactions with the Tenant on account for his safety as the Tenant's behaviours were erratic.

He pointed to another video where the Tenant approached a resident of the building and she would continually place her hands in this person's face and over his phone. This situation devolved to the point where the Tenant elbowed the resident and raised her fists. The resident complained to the Landlord about this assault and harassment, and this was reported to the police.

He cited another video where the Tenant was recorded approaching a resident of the building, in January 2021, and threatening him by stating, "Do you want to go home in a body bag?"

He referred to another two videos where a resident is standing in the lobby with another person and the Tenant approaches them and attempts to engage them in a hostile

manner. As they make efforts to avoid confrontation, she continually circles them to engage them, and she puts her hand in their faces.

He referenced the documentary evidence provided which contains complaints from residents and staff of the Tenant's hateful, racist, bullying threats and actions. He speculated that the Tenant's behaviours stem from her disagreement over other resident's culture or beliefs as she has made complaints of other residents engaging in what she described as "sharia law". As well, she has been captured on video expressing hatred for a specific religion that is not her own.

The Tenant responded to J.F.'s submissions regarding the incident in the lobby. She advised that she had a court order against one of the people that was in the lobby and that person was not permitted to be in her vicinity. She was unsure if she was in the lobby first or if these people were there prior to her arriving. As well, she was not sure of why she was in the lobby that particular day. However, she submitted that she approached them to remind them of the court order and that they must leave. She stated that she is supposed to call 911 if there was an incident when the parties were in the same area, but she did not call the police about this particular incident. She stated that she simply left the area after this encounter.

Regarding the video depicting her disdain for a certain religion, she advised that this was only a small snippet of the entire interaction. However, she stated that she apologized as she was sick and ill about the comments that she made.

With respect to the incident where she threatened a resident of the building by asking if he wanted to "go home in a body bag?", she stated that this was in response to an incident where he kicked a dog. However, she did not dispute that she threatened this person in this manner. As well, she apologized for this incident.

When she attempted to explain her dissatisfaction with what she termed "sharia behaviour" of other residents in the building, she advised that residents would use their personal devices in the lounge without headphones so everyone could hear, and this was disruptive. She complained to the Landlord and requested that signs be put up to remind residents to use headphones. She viewed the video of the encounter in the lounge during the hearing and she provided her account of the altercation. She stated that she asked a resident to put on his headphones while listening to his device and this person gave her a dirty look. Profanity was exchanged and she stated that she put her

hand in front of his camera to prevent him from filming. She denied that she made contact with this resident with her elbow, but stated that she simply raised her elbow.

N.A. advised that the videos depicting the Tenant's remarks against a different religion occurred outside of the building's grounds. She stated that the incident in the lobby occurred because one of the people involved was not permitted to be in the building. Regarding the incident in the lounge, she submitted that the Tenant did not assault this other resident. As well, she stated that the Landlord's documentary evidence of complaints occurred either well before, or after, the Notice was actually served. Finally, she stated that any complaints of a garden issue of plants being destroyed were hearsay.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord's One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

I find it important to note that the Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

### ***Landlord's notice: cause***

**47** (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

*(d) the tenant or a person permitted on the residential property by the tenant has*

*(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant*

*(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.*

When two parties to a dispute provide equally plausible 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. Given the contradictory testimony and positions of the parties, I must also turn to a determination of credibility.

I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy. I note that as determined above, the Tenant's credibility was already in doubt from the outset of the hearing. Furthermore, when providing testimony, the Tenant was either vague or seemingly confused about the details in her responses to the Landlord's allegations.

Moreover, I viewed some videos during the hearing simultaneously with the Tenant, and her description of her actions depicted in the lobby and lounge videos, were inconsistent with what appeared to be her actual actions in those videos. In the lobby video, it is clearly evident that the Tenant is standing at a distance of about six feet behind two individuals for approximately six seconds, watching them. She then actively and purposefully confronts them, attempting to engage them in dialogue. As they avoid engaging with the Tenant, she repeatedly circles them, for approximately 40 seconds, in a manner that appears confrontational or even hostile. She also appears to wave her hand in front of one person's face. It should be noted that there is adequate room for the Tenant to avoid these individuals and walk past them to exit the building, and the Tenant does just that at the end of the video.

While the Tenant claimed that there is a court order prohibiting one of the people in the video from being in her proximity, she did not know if she had arrived in the lobby before them or not. From the video, I can reasonably infer that these two men were in the lobby first and then Tenant then came into the lobby subsequently and saw them. I find it likely that had the Tenant been there first, she would not have then approached them and simply stood idly by within six feet of them and watched them as depicted in the



video. Given that the Tenant advised that one of these people could not be in her vicinity, had she been in the lobby first, I find it reasonable that she would have advised them to leave. As such, I find it more likely than not that the Tenant was leaving the building when she observed these men who were already in the lobby.

In the video, after standing near the men for a time, the Tenant is then observed intentionally and aggressively approaching these individuals and engaging with them. The Tenant advised that she did this to inform them that they were not permitted to be there; however, this matter could have been handled differently and more reasonably. Moreover, the Tenant could have simply avoided any confrontation altogether and exited the building as there was ample room to do so, and then alert the authorities as she was directed. However, the Tenant chose to aggressively engage with these individuals even though it was clear that they were making attempts to avoid any confrontation. In addition, the Tenant did not call the police regarding this incident as she was directed to when the conditions of the court order had been violated. I find it more likely than not that the police were not notified of this incident because it was the Tenant that came into the lobby after, and that the man that had the court order issued against him did not violate this order as it was the Tenant that approached him.

In my view, the actions by the Tenant were unquestionably intentional, unnecessary, and a deliberate attempt to antagonize these people who were more likely than not in the lobby even before the Tenant arrived. I find that the Tenant's behaviour depicted in this video is consistent with the Landlord's documentary evidence that supports why the Notice was served.

In the video of the lounge incident, the Tenant is observed standing next to a seated individual on his phone, cornering him against a wall. She then proceeds to reach out across his body and engages with him by appearing to block or grab his phone repeatedly. She then places her hand directly in his face. This lasts for approximately 25 seconds. The Tenant then reaches for this person's phone again and continues this action for approximately 15 seconds. The individual then stands up from his chair and the Tenant clearly draws her elbow back across her own body and swings it in the direction of the man. It is unclear whether or not he is actually struck with her elbow, but this incident cannot be viewed objectively in any manner other than an attempt by the Tenant to strike this individual. Given that the Tenant immediately spins and assumes a fighting stance with her fists raised at this man, despite her claim that she simply raised her elbow, it is clear in my view that this was very much an intentional act of aggression. If there was no hostile intent from the Tenant, then it is not clear to me why she would

adopt this posture. There does not appear to be any physical threat or action committed by the man to instigate the Tenant's violent outburst. Seconds later, she then attempts to reach out for this person's phone again.

Based on my assessment of these videos, plus the video where the Tenant acknowledge that she threatened a resident with being put in a "body bag", I am satisfied that the Tenant has purposefully engaged in a clear, consistent pattern of aggressive, profane, hostile, belligerent, unacceptable, increasingly threatening, and wholly inexcusable behaviour. I find that the Tenant's portrayal of her interactions is either fabricated or her perception of her interactions is skewed. As I am satisfied that the Tenant's inappropriate and malicious actions are more consistent with the Landlord's evidence, I find that I prefer the Landlord's evidence on the whole.

I note that it is incumbent on persons living in a shared complex to co-exist together peacefully, and it is not the role of the Landlord to manage personal differences between their tenants. However, when disputes devolve to the point that the parties' right to quiet enjoyment may be compromised, it is up to the Landlord to investigate the issue after being advised of the problem to determine if there is any fault of one or all of the parties. However, it is evident that the manner with which Tenant carries herself demonstrates that she engages in an ongoing pattern of hostility and antagonism that has caused, and continues to cause, friction and discord. This behaviour of the Tenant is a clear contravention of the *Act*.

Clearly, the Tenant is unable to display an acceptable level of prudence or restraint, and her repeated actions demonstrate anything but ordinary common-sense behaviour. Based on her conduct and objectionable comments, it appears as if the Tenant was motivated to act in this manner primarily because of her disagreement with other residents' religion, race, and/or personalities. While she may be entitled to her own personal beliefs, I am skeptical of her expressed remorse during the hearing for any of her actions and comments. As noted above, it is incumbent on parties sharing common living areas to live together peacefully; however, I am satisfied by the Tenant's actions that the grounds for ending the tenancy have been justified.

As the Landlord's Notice is valid, and as I am satisfied that the Notice was served in accordance with Section 89 of the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of May 31, 2021 on the One Month Notice to End Tenancy for Cause is changed to the nearest date that complies with the law. Since that effective date has passed, I grant the Order of Possession effective **two days** after service of this Order on the Tenant.

### Conclusion

I dismiss the Tenant's Application for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 9, 2021

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Residential Tenancy Branch