



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Victoria Cool Aid Society and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause.

The landlord was represented at the hearing by an agent who gave affirmed testimony and called 1 witness who also gave affirmed testimony. The landlord was also accompanied by an observer who did not testify or take part in the hearing. The tenant also attended and gave affirmed testimony. The parties were given the opportunity to question each other and the witness and to give submissions.

The tenant confirmed that the landlord's evidence has been received by the tenant. The tenant has not provided any evidence for this hearing.

### Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy for Cause was issued in accordance with the *Residential Tenancy Act*?

### Background and Evidence

**The landlord's agent** (KV) testified that this month-to-month tenancy began on November 27, 2019 and the tenant still resides in the rental unit. Rent is subsidized and the tenant's share is \$375.00 per month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$260.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment with 36 units on 3 floors, and a copy of the tenancy agreement has been provided as evidence for this hearing. The landlord's

agent does not reside on the property and there are no live-in managers or caretakers, but 24 hour staff.

The landlord's agent further testified that on April 27, 2021 the tenant was personally served with a One Month Notice to End Tenancy for Cause, a copy of which has been provided for this hearing. It is dated April 27, 2021 and contains an effective date of vacancy of May 31, 2021. The reason for issuing it states:

- 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 has been warned many times verbally and in writing about physical and verbal aggression. There have been many, many incidents of aggression towards others, including yelling, swearing, pounding on doors of other residents, and they are afraid of him. One resident has asked to be moved to another unit as a result. Almost daily the tenant has sworn or yelled at staff, slams doors, slams and kicks the elevator. The tenant has also sworn at staff for not being fast enough to open the tenant's door when he's misplaced or forgotten his key. Caution Notices have also been given to the tenant, and the landlord's agent testified that the first Caution Notice was given in July, 2020. Numerous log notes have also been provided for this hearing which commence as early as April 2020, so just a few months after he moved in. This is a supportive housing development which is usually for homeless people. It can be an adjustment, so the landlord allows for a transition period, so the landlord was not too worried about initial poor behaviours.

Another notice to end the tenancy was issued to the tenant in October, 2020 effective at the end November, 2020 for the same reasons. The tenant did demonstrate a better demeanor in November and the landlord withdrew the Notice, but then the behaviours continued.

The tenant has not served the landlord with an Application for Dispute Resolution disputing the Notice and the landlord seeks an Order of Possession.

**The landlord's witness** (IH) testified that he is the program manager of the building. The witness and another staff member attended the tenant's rental unit on April 27, 2021 and the witness personally hand-delivered the One Month Notice to End Tenancy for Cause to the tenant.

The witness also testified that staff members have reported a lot of aggressive behaviour of the tenant, being yelled at, called names, and the tenant has been physical by punching walls and elevators with some damage to property. It is consistent and seems to be the way the tenant expresses himself. Feedback from staff is that they fear the tenant and don't feel safe near him.

**The tenant** testified that he resides in a "wet" building, and then was told it was a mental health building.

The tenant admits that he has anger issues but has never been physical toward anyone and has never touched anyone. The tenant didn't dispute the One Month Notice to End Tenancy for Cause because he really can't read and doesn't understand things. The tenant asked the landlord's witness to help him, and he talked to the tenant about going into low income housing, but the witness never got back to the tenant about it.

The tenant had a worker, however she moved away and every time the tenant asks for help, the door gets slammed. The tenant is good with somethings, and it doesn't make sense that the landlord would evict the tenant, and feels targeted. Yelling and being loud has not occurred every day, and the tenant denies that he caused any damage to the building; no one has said anything to the tenant about that.

The tenant gave letters to the landlord's agents from other residents indicating that they are not afraid of the tenant. They have not been provided for this hearing because the tenant needed help.

The tenant pretty much sticks to himself.

The tenant acknowledges receiving a notice to end the tenancy about the same issues in October, 2020, which the landlord rescinded. The tenant agreed in writing to start acting in a respectable and responsible manner, although there have been a few setbacks, but he's trying.

The tenant swore, kicked, and banged in the elevator because he didn't have a key and the staff member was in the office with headphones on and the tenant yelled out asking the staff member to open the door. The staff member said, "Use your words," and the tenant replied that he did. The tenant did ask for a new key, and then the method of access was changed to a card system. Other residents also kick the elevators and yell; some yell at nothing.

The tenant was assigned a worker but the worker is no longer available.

#### SUBMISSIONS OF THE LANDLORD'S AGENT:

The landlord feels that this is unfortunate that the tenancy has come to this place. The tenant does not take ownership of his actions despite verbal and written warnings while the landlord's staff are trying to support him. Other than in November, 2020 there have been no changes. It is not fair to other tenants or staff who fear him and are there to assist the tenant.

#### SUBMISSIONS OF THE TENANT:

The tenant has been trying to work on his attitude and with a worker, who must be on leave or something. However whenever the tenant asks for help, he's told that "they don't do that."

#### Analysis

The *Residential Tenancy Act* states that once served with a One Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy. However, case law also dictates that a landlord must demonstrate good faith when issuing any notice to end a tenancy.

In this case, I accept the undisputed testimony of the landlord's agent that the tenant has not served the landlord with an application disputing the Notice, and I have no such application before me.

I have reviewed the evidentiary material of the landlord, including all log notes, which indicate numerous incidents of rude behaviour, swearing, banging the walls of the elevators and reluctance by staff to intervene due to the tenant's aggressive behaviour.

I have also reviewed the One Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Act*.

The tenant has not disputed the Notice, and considering the testimony and evidentiary material, I find that the landlord had cause to issue the Notice. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. The effective date of vacancy contained in the Notice is May 31, 2021 and I have no authority to extend the date. Since that

date 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. I grant a monetary order in that amount in favour of the landlord as against the tenant, and I order that the landlord may keep that amount from the security deposit held in trust or may otherwise recover it by filing it for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the landlord may keep that amount from the security deposit held in trust or may otherwise recover it.

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: September 20, 2021

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Residential Tenancy Branch