



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Mount Douglas Seniors Housing  
Society and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (“the Act”), I was designated to hear an application regarding a tenancy. The Tenant applied for an order to cancel a One Month Notice to End Tenancy for Cause (“the Notice”), pursuant to section 47.

The hearing was attended by the Tenant and the Landlord’s agent (“the Landlord”); both were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The parties were advised of the Residential Tenancy Branch (RTB) Rules of Procedure Rule 6.11 prohibition on recording dispute resolution hearings.

The RTB provided the Tenant with the dispute resolution proceeding package (DRPP) on June 23, 2021. The Landlord testified the Tenant sent the DRPP by registered mail on June 24, 2021, which the Landlord received on June 30. The Landlord stated they served their evidence on the Tenant by taping a package to the Tenant’s door on August 19, 2021. I find the parties served in accordance with sections 88 and 89 of the Act.

### Preliminary Matter – Application Submission Date

A review of the RTB’s case management system shows the Tenant filed an online application for dispute resolution on June 7, 2021 and their fee waiver was accepted. The Tenant called the RTB on June 14, 2021 to check the status of their application. The application remained locked in the status of “Application received – screening” until June 16, 2021. On this date, RTB staff notified the Tenant that the application was incomplete and changed the status of the application to allow the Tenant to edit it. The next day, on June 17, 2021, the Tenant edited the application to add the claim to

dispute the Notice. On page 2 of the Notice of Dispute Resolution Proceeding, June 17, 2021 is recorded as the date the application was submitted.

RTB Rule of Procedure 2.6 states:

The Application for Dispute Resolution has been made when it has been submitted and either the fee has been paid or when all documents for a fee waiver have been submitted to the Residential Tenancy Branch directly or through a Service BC Office. The three-day period for completing payment under Rule 2.4 is not an extension of any statutory timelines for making an application.

If payment is not completed or if all documents for a fee waiver are not submitted within three days as required, the application will be considered abandoned. To pursue the claims, the applicant must submit a new application—this does not provide an extension of time for any statutory timelines.

Pursuant to Rule 2.6, I find that because the Tenant's fee waiver was accepted on June 7, 2021, the Tenant submitted the application for dispute resolution on June 7, 2021.

### Issues to be Decided

Should the One Month Notice be cancelled? If not, is the Landlord entitled to an order of possession?

### Background and Evidence

The parties confirmed the periodic tenancy started on July 1, 2020. Rent is \$600.00 per month, due on the first of the month. The Tenant paid a security deposit of \$300.00. A copy of the tenancy agreement was submitted as evidence by the Landlord.

The Landlord testified that the Notice was placed in the tenant's mailbox on June 3, 2021; this was not disputed by the Tenant. In their application, the Tenant indicated they received the Notice in their mailbox on June 5, 2021.

The Tenant submitted a copy of the Notice as evidence; page 2 indicates that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. In the Details of Cause(s) section, the Landlord states: "Repeated use of inflammatory and accusative language in letters and emails to the landlord. Repeated accusations that the landlord is

forcing illicit drugs into his bloodstream and/or 'the bloodstreams of elderly and disabled persons.' Failure to comply with caution dated January 5, 2021, to cease and desist [sic] such accusations."

The Landlord testified to the frustrations tenants experienced after moving into a new building and finding it less soundproof than anticipated. The Landlord described the Tenant bothering, and being bothered by, tenants living in nearby units, all parties primarily disturbed by the unexpectedly loud sounds of neighbours going about the usual activities of daily living.

In their testimony and documentary evidence, the Landlord described communication from the Tenant they found challenging, including extensive email correspondence consisting of requests and accusations from the Tenant, starting with a prior tenancy which began in 2019. The Landlord's evidence includes written complaints from the tenant and the landlord's diligent response to those complaints.

The Landlord submitted into evidence a January 5, 2021 caution letter the Landlord sent the Tenant in response to their complaints about marijuana smoke in the residence, the letter requesting that the Tenant's "communications with the hardworking staff of [society name] reflect a level of respect consistent with our history of responding quickly and professionally to [the Tenant's] concerns." The letter cautions the Tenant: "If you continue to use inflammatory and/or accusatory language in your communications with Society staff, you may be issued with a Notice to End Tenancy for cause."

On May 27, 2021, the Landlord sent the Tenant a caution notice, stating that the Tenant has twice accused their downstairs neighbour of using drugs, and that the Landlord has followed up and found no evidence of drugs in the neighbour's apartment. The caution notice also states that the Tenant admitted to deliberately making noise to disturb said neighbour, because the Tenant believed them to be using drugs. The caution notice cautions the Tenant that if they "continue to cause deliberate noise disturbances for [neighbour], or other tenants, ... [or] continue to accuse neighbours of using drugs, or to knock on their doors to tell them to stop using drugs, [the Tenant] will be served with a Notice to End Tenancy for cause."

During the hearing, the Tenant stated they had complied with the Landlord's requirements, as set out in the January 5, 2021 caution letter, and that the Tenant had only communicated with the Landlord on May 29, 2021 in response to the Landlord's May 27 caution notice.

In the Tenant's May 29, 2021 response to the caution notice, the Tenant writes that before sending the caution, the Landlord did not first approach the Tenant to hear their side of the story. The Tenant stated that twice on the same day, the downstairs neighbour came to the Tenant's door, complaining that the Tenant's footsteps were too loud. The Tenant also wrote that when he returned from being away from the residence for three weeks, "there was a letter of reprimand from you waiting for me, rebuking me for making noise and disturbing other residents during the three weeks I was away!" The Tenant further states: "I have made no accusation whatsoever to you about [downstairs neighbour], or any other specific tenant, regarding drug use," noting that "With your letter, *You* approached *me* regarding [the downstairs neighbour]; in this present reply I am simply responding to *your* approach. Nor have I made any such accusation regarding any other neighbour." Later in the letter, the Tenant notes that that morning, the downstairs neighbour twice banged on the ceiling (the Tenant's floor) at 5:00 a.m.

During their testimony, the Tenant stated they are in the process of seeking a new home, but require additional time to do so.

### Analysis

The Landlord properly served the Notice on the Tenant pursuant to section 88 of the Act.

Section 47 [*Landlord's notice: cause*], part (4) states:

(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

I find the Tenant, having received the Notice on June 5, 2021 and applied for dispute resolution on June 7, 2021, met the application deadline pursuant to the Act.

Pursuant to Rule 6.6 of the Residential Tenancy Branch Rules of Procedure, when a tenant disputes a notice to end the tenancy, the burden is on the landlord to prove the reason for which they seek to end the tenancy. In this case, in order to end the tenancy, the Landlord must prove, on a balance of probabilities, not only that the Tenant interfered or disturbed another occupant or the Landlord, but that they did it to a significant or unreasonable degree. The relevant portion of section 47 of the Act states:

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

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

...

The Landlord has made it clear they feel frustrated and harassed by the Tenant's extensive written correspondence and its accusatory tone. However, there is no evidence the Tenant has sent their written complaints to external third parties, or that the Tenant's complaints are interfering with the Landlord's ability to conduct business.

In the Landlord's testimony and presented evidence, there was no reference to the Tenant making threats, or having physical altercations with fellow tenants, the staff, or the Landlord. Though the Landlord alleges the tenant confronted his downstairs neighbour, this is not substantiated, and the Landlord has not claimed in the Notice or in testimony that the tenant is disturbing other tenants.

While the Landlord may find the Tenant's correspondence exasperating, written correspondence, in the absence of threats to harm the Landlord, disruption of the Landlord's ability to maintain the rental property, or disruption of other tenants' right to quiet enjoyment, does not rise to the standard of significant interference or unreasonable disturbance intended by the Act. However, if the tenant was, for example, calling 911 or pulling the fire alarm each time they believed they were inhaling second-hand smoke from drugs, I would consider these significant interferences or unreasonable disturbances, and grounds for ending the tenancy.

Conclusion

The landlord has failed to prove, on a balance of probabilities, the reason for the One Month Notice to End Tenancy for Cause. The Notice is cancelled, and the tenancy will continue until it is ended in accordance with the Act.

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: October 19, 2021

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Residential Tenancy Branch