



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

The Tenant applies to cancel a One-Month Notice to End Tenancy signed June 30, 2021 (the “One-Month Notice”) pursuant to s. 47 of the *Residential Tenancy Act* (the “Act”).

M.G. appeared on behalf of the Tenant as her advocate and agent. The Tenant did not appear at the hearing. P.K. and K.G. appeared as agents for the Landlord.

The parties affirmed to tell the truth during the hearing and were given a full opportunity to be heard, to present sworn testimony, question the other party, and to make submissions. I advised the parties of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing.

The Landlord advised having served the One-Month Notice by posting it to the Tenant's door on June 30, 2021. The Tenant's advocate acknowledged receipt of the One-Month Notice. I find that the One-Month Notice was served in accordance with s. 88 of the *Act*. Pursuant to s. 90 of the *Act*, I deem the Tenant to have been served with the One-Month Notice on July 3, 2021.

The Tenant advised having served the Landlord with the Notice of Dispute Resolution by way of registered mail sent on July 27, 2021. The Landlord acknowledges receipt of the Notice of Dispute Resolution. I find that the Notice of Dispute Resolution was served in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem the Landlord to have been served with the Notice of Dispute Resolution on August 1, 2021.

The Tenant indicated having served the Landlord with their evidence by way of registered mail sent on October 14, 2021 and October 20, 2021. The Tenant's advocate indicated having also served the evidence by way of email sent on those dates. The Landlord acknowledged receipt of the two evidence packages from the Tenant. The Landlord made no objection with respect to the Tenant's late evidence or service by way of email. I find that the Tenant's evidence was served in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem the Landlord to have been served with the Tenant's evidence on October 19, 2021 and October 25, 2021.

The Landlord advised having served the Tenant with their responding evidence by personally serving it on the Tenant on October 21, 2021. The Tenant's advocate acknowledged receipt of the Landlord's evidence. I find that the Landlord served their responding evidence on October 21, 2021 in accordance with s. 89 of the *Act*.

#### Preliminary Issue – Amending Style of Cause

At the outset of the hearing, I clarified with the Landlord's agents who, in fact, was the Landlord. The Landlord confirmed that the corporate Landlord, as listed in the tenancy agreement, is the correct Landlord. The Tenant raised no objections with respect to the amendment. Accordingly, I amend the application pursuant to Rule 4.2 of the Rules of Procedure such that the style of cause reflects the corporate Landlord as listed in the tenancy agreement.

#### Issue(s) to be Decided

- 1) Whether the One-Month Notice signed June 30, 2021 ought to be cancelled?
- 2) If not, is the Landlord entitled to an order for possession?

#### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The parties confirmed the tenancy began on October 18, 2017. The Tenant pays rent in the amount of \$725.00, which is due on the first day of each month. The Landlord confirmed holding a security deposit of \$362.50 in trust for the Tenant. A written tenancy agreement was provided by the parties. The Tenant applicant is listed as a co-tenant

with another individual within the tenancy agreement. Both the Tenant and the co-tenant continue to reside within the rental unit.

The Landlord advised having issued the One-Month Notice following a series of incidents involving the tenants. The One-Month Notice indicates the following reasons for why the tenancy should end:

- The Tenant has allowed an unreasonable number of occupants within the rental unit.
- The Tenant or a person permitted onto the property by the Tenant has significantly interfered with or unreasonably disturbed other occupants or the Landlord and put the Landlord's property at significant risk.
- The Tenant or a persona permitted onto the property by the Tenant has engaged in illegal activity that has, or is likely to affect the quiet enjoyment, security, safety, or physical well-being of another occupant or the Landlord.

The Landlord provides a series of warning letters sent to the Tenant (November 30, 2020; January 4, 2021; February 26, 2021; April 15, 2021; and June 16, 2021). The warning letters detail complaints from other tenants with respect to parties and noise coming from the Tenant's rental unit as well as garbage, cans, and cigarette butts from the parties being left within common areas by partygoers. The letter of April 15, 2021 states that any further incidents would result in an eviction.

On June 15, 2021, the Landlord indicates that the Tenant had another party. On that occasion, the Landlord submits that the door to the Tenant's rental unit was kicked-in on by partygoers. The letter of June 16, 2021 notifies the Tenant that they would be evicting the Tenant and the Landlord issued the One-Month Notice on June 30, 2021.

Various statements have been provided by the Landlord from K.A., who the Landlord advises cleans the residential property and assists in its management. These statements are dated November 13, 2020; January 2, 2021; February 24, 2021; April 13, 2021; June 15, 2021; and August 3, 2021. K.A. advises in her statements that parties were occurring within the Tenant's rental unit and that she had cleaned cans, cigarette butts, and garbage in the hallway in front of the Tenant's rental unit. In particular, the note of February 24, 2021 indicates that K.A. knocked on the Tenant's door when cleaning the hallway and the Tenant apologized and told her that there had been partying all night.

Another statement dated April 13, 2021 indicates the Tenant had approached K.A. aggressively and began to yell obscenities at K.A. saying that she needed to stop trying to get her kicked out. K.A. states she left the residential property on that occasion because she was afraid for her safety.

K.A., in a statement dated August 3, 2021, notes that the Tenant had been partying within her rental unit for several days that week and there were multiple complaints from other occupants regarding noise and belligerence from tenants within the rental unit.

The Tenant's advocate advised that the Tenant had not received the warning letters provided by the Landlord other than when they were provided as evidence as part of this application. The Tenant's advocate further advised that the Tenant's family had had several funerals in the spring of 2021 in which family members attended the rental unit after the funerals. The Tenant denies the allegations set out the warning letters and denies disturbing other occupants. The Tenant indicates in a statement dated October 14, 2021 (the "Statement") that she keeps to herself and speaks to her neighbour sometimes. The Tenant's advocate argues that there are no statements or evidence from the building's other occupants and that I should place little weight in the evidence from the Landlord.

The Tenant does acknowledge that the door to her rental unit was kicked in. The Tenant advises in her Statement that the RCMP performed a wellness check after a neighbour called in concerned that there was a domestic dispute between the tenants within the rental unit. When the RCMP attended, the Tenant did not answer the door when they knocked because she was in the kitchen cooking. The Tenant says the RCMP then kicked in the Tenant's door. The Tenant's advocate argues that the cost of the door repair has been paid by the Tenant.

The Landlord also advised that there had been a cockroach problem within the Tenant's rental unit. A pest control company was retained by the Landlord to deal with the rental unit. The Landlord says that the Tenant had prevented access to the rental unit to allow for the treatments. In an invoice dated March 5, 2021, it indicates that the technician attended the rental unit but was unable to conduct the treatment because the rental unit was not ready, and the Tenant was intoxicated.

The Tenant's Statement indicates that the Tenant did not refuse access to the rental unit and argues that it is in her interest to deal with the cockroaches as she lives within the rental unit. The letter indicates that the Landlord had sprayed the rental unit, but the

problem persisted. On the second occasion the Landlord attended, the Tenant says she was in pain and could not get off the couch.

The Tenant's advocate indicates that he knows the Tenant to have rheumatoid arthritis and has a history of dealing with chronic pain. The Tenant's advocate further argues that he was neighbour to the Tenant in 2015 and found her to be a good neighbour at that time.

### Analysis

The Tenant applies to cancel the One-Month Notice signed June 30, 2021.

I find that the One-Month Notice complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

Under s. 47 of the *Act*, a landlord may end a tenancy for cause and serve a one-month Notice to End Tenancy to the tenant. Under the present circumstances, the Landlord issued the One-Month Notice pursuant to sections 47(1)(c), (d)(i), (d)(iii), and (e)(ii). The onus of showing the notice is enforceable rests with the Landlord.

Section 47(1)(d)(i) provides that where a tenant, or a person permitted onto the property by the tenant, significantly interferes with or unreasonably disturbs another occupant of the residential property then the tenancy may be terminated. Essentially, it is intended to protect the right of other occupants to the quiet enjoyment of the property. Unlike s. 47(1)(e)(ii), there is no need to make out that the tenant or other person's conduct was illegal.

I find that the Landlord has established a history and repeating pattern of behaviour by the Tenant or people permitted onto the property by the Tenant that has unreasonably disturbed other occupants of the residential property. I put significant weight on the statements of K.A. who cleans the residential property and has direct evidence that the Tenant has had parties within the rental unit which resulted in cans/garbage/cigarette butts being left in the common areas of the property. I accept that the Tenant apologized to K.A. on or about February 24, 2021 and told K.A. that she had been partying all night.

The Tenant did not appear to provide direct evidence with respect to the series of parties the Landlord says happened within the rental unit. The Tenant's advocate and the Tenant's Statement argue these were not parties but events that occurred after funerals in early 2021. Accepting the Tenant's evidence on this point, this does not excuse the conduct of the Tenant or the Tenant's guests. Despite the tragic circumstances of the gatherings within the rental unit, it does not permit the Tenant or the Tenant's guests to leave cans, garbage, and cigarette butts within the common areas of the residential property. It does not excuse the noise and unreasonable disturbances to the residential property's other occupancies caused by the Tenant or the Tenant's guests.

I find that One-Month Notice issued pursuant to s. 47(1)(d)(i) is valid and enforceable. As the notice is valid on this ground, I need not consider the other grounds set out in the One-Month Notice. Accordingly, the Tenant's application to cancel the One-Month Notice is dismissed.

Section 55(1) provides that where a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with s. 52, then I must grant the landlord an order for possession. Accordingly, the Landlord is granted an order for possession.

### Conclusion

The Tenant's application to cancel the One-Month Notice signed June 30, 2021 is hereby dismissed.

Pursuant to s. 55(1), I grant the Landlord an order for possession. The Tenant and any occupants within the rental unit are to provide the Landlord vacant possession of the rental unit no later than **two (2) days** after being served with the order.

It is the Landlord's obligation to serve the order for possession on the Tenant. If the Tenant does not comply with the order for possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that Court.

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: November 04, 2021

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Residential Tenancy Branch