



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RE/MAX of Nanaimo Property  
Management and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, MNDC, LRE, LAT

### Introduction

This hearing dealt with the tenants' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- an order cancelling the One Month Notice to End Tenancy for Cause (Notice) issued by the landlord;
- compensation for a monetary loss or other money owed;
- an order suspending or setting conditions on the landlord's right to enter the rental unit;
- authorization to change the locks to the rental unit; and
- to recover the cost of the filing fee.

The tenants and the landlord's agents (agents) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

The parties were informed at the start of the hearing that recording of the dispute resolution hearing is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. All parties provided affirmed testimony they were not recording the hearing.

The parties confirmed receiving the other's evidence, and the agent confirmed receiving the tenants' application.

Thereafter parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

#### Preliminary and Procedural Matters-

The tenant, MS, began the hearing by immediately stating how he would challenge my Decision in the "BC Supreme Court of Appeal", and he continued to mention it throughout the hearing. MS at the conclusion of the hearing also mentioned words like the Human Rights Tribunal and how because of "humanism", I could not evict disabled tenants without giving them a long time to move out.

Additionally, MS continued to say he was leaving the hearing, but he continued to come back and forth into the room, speaking very loudly and interrupting the hearing. MS near the end of the hearing again asked how he could challenge my Decision. Ultimately, I informed MS that I would disconnect them from the hearing if his disruptive behaviour continued. I note, however, I did not do so.

As another procedural matter, Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenants indicated several matters of dispute on the application, the most urgent of which is the application to cancel the One Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the One Month Notice. The balance of the tenants' application will be addressed within this Decision.

I also find it necessary to amend the tenants' application as to naming of the respondents. The written tenancy agreement shows that the landlord is a property management company representing the owner, not the two individuals (agents) named

by the tenants. I therefore removed the individuals named as landlord and included the name as shown on the written tenancy agreement in the style of cause page of this Decision.

### Issue(s) to be Decided

Has the landlord submitted sufficient evidence to support their Notice or are the tenants entitled to an order cancelling the Notice?

### Background and Evidence

The undisputed evidence is that this tenancy began on or about July 1, 2020. The rental unit is in the basement level of a home, with other tenants of the landlord living in the upper level.

Filed in evidence by the landlord was the Notice. The Notice was dated August 12, 2021, for an effective date of September 31, 2021, and was served on and received by the tenants on August 12, 2021.

The reasons stated on the Notice to end tenancy were:

- the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
- the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

### ***The agent provided the following testimony and references to their documentary evidence:***

Agent GL stated that the problems with the tenancy lie with tenant MS, not with the other tenant. The agent stated that MS constantly engages in loud shouting matches with his mother, the other tenant, and the upper tenants.

The agent referred to the documentary evidence, which was a letter from the owner of an air cleaning company. The owner recounted the experience of one of their

tradesman working in the rental unit. The tradesman stated that the male tenant began “babbling” about how “no one knows the things I’ve done”, “stabbing people is pretty easy”, etc. The owner stated that he had experience with this kind of behaviour due to past work, and described the tenant as having an anger disorder. The owner said that the technician was so concerned for his safety, he put a screwdriver in his back pocket while there, and commented that he would have pulled his employee had he known the extent of the threatening behaviour.

The upper tenants have made complaints about MS’ behaviour, according to the agent. The upper tenants wrote to the landlords about the “racial slurs, threats of murder and burning down the house” from MS. The upper tenants informed the landlord that MS has been banging on the doors and ceilings all day and night. The upper tenants said that they had put up with all the noise disturbances, threats and slurs until their daughter overheard MS “ranting about killing whoever knocks on their door next, or rings their doorbell”. The upper tenants said they feared for the safety of MS’ mother, the other tenant, due to what they have heard him say. The upper tenants wrote that MS said they should not be “living in a white neighbourhood”. The upper tenants said they have been subjected to racism, hate and violence. Filed in evidence were written statements from the upper tenants.

GL said after receiving this letter, he went to the rental unit to talk with the tenants. However, he was unable to have a conversation as MS flew into a rage and kept walking in and out of the room, according to the agent. GL said that MS would not listen and just kept yelling and screaming. As a result, GL said he left.

The landlord filed another letter from the upper tenants, requesting a separate garbage bin from the tenants, as they leave their raw meat packaging in the bin, causing maggots outside the bin. Due to the actions of the tenants, there is a foul odor immediately outside their rental unit, according to the upper tenants.

The upper tenants submitted another letter to the landlord again complaining about the maggots and rats running past their window due to the garbage left by the tenants. The upper tenants again told the landlord about the vulgar and abusive language from the tenants.

Finally, on August 11, 2021, the upper tenants asked the landlord again to do something about the tenants. According to the upper tenants, MS kept yelling racist slurs and confronted the male upper tenant, saying “you know what happens to people

who knock on doors where he's from, they get murdered". The upper tenants said they made another police report. The upper tenants said they did not feel safe in their home, due to the actions and behaviour of the tenants.

The upper tenants described how MS hates women and was a homophobic and racist, and could not wait for them to leave.

GL said they have received many complaints from neighbours, but they would not sign a letter out of fear for their safety.

Filed in evidence by the landlord were warning letters to the tenants.

### ***Tenant's response –***

Tenant, SD, provided the tenant's response, as MS continued coming in and out of the hearing.

SD said that GL, on the day he came over to talk, came back into the rental unit after he left that day, in order to finish their conversation.

SD said that MS was on a "tangent" that day, and she asked him to stay in his car. SD said she was sure every neighbour has heard MS screaming.

In response to my inquiry, SD said she had no further statements.

In the background, MS said he wanted to leave anyway.

Filed in evidence were emails to the landlord, saying that the upper tenant banged on her door and rang her doorbell. SD said that she would make a criminal investigation of elder abuse from the tenant as well as start a "federal human rights tribunal" case as to why the landlord would not stop the upper tenants' abuse. Copies of pictures were also sent to the landlord. This evidence was dated after the Notice had been issued.

### **Analysis**

Section 47(1)(d)(i) of the Act authorizes a landlord to end a tenancy if the tenant or a person permitted on the residential property by the tenant has significantly interfered

with or unreasonably disturbed another occupant or the landlord of the residential property.

Where a Notice to End Tenancy comes under dispute, the landlord has the burden to prove the tenancy should end for the reason(s) indicated on the Notice. The burden of proof is based on the balance of probabilities, meaning the events as described by one party are more likely than not.

Section 28 of the Act states that all tenants are entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the Act; use of common areas for reasonable and lawful purposes, free from significant interference.

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

The tenant did not dispute the evidence of the landlord, either during the hearing or in documentary evidence. For this reason, I find the landlord's evidence is undisputed.

I find a reasonable person would fear for their safety and security and would be unreasonably disturbed by the continued hate speech and implications that they could be murdered. I also find the actions of MS during the hearing confirmed the allegations raised in the landlord's evidence and the Notice. The tenants had been informed that the hearing was a formal legal proceeding, yet MS continued to interrupt the hearing and show inappropriate behaviour.

Considering the totality of the evidence before me, including the tenants' failure to rebut the landlord's evidence, and given that I find the landlord's oral and documentary evidence to be credible, I find the landlord has submitted sufficient evidence to prove on a balance of probabilities that the tenant significantly interfered with or unreasonably disturbed another occupant or the landlord.

As I have found the landlord has proven at least one of the causes they listed on the Notice, it was not necessary to consider the other listed causes.

As a result of the above, I **dismiss** the tenants' application requesting cancellation of the Notice, without leave to reapply, as I find the One Month Notice valid, supported by the landlord's evidence, and therefore, enforceable.

Under Section 55(1)(b) of the Act, if a tenant's application to cancel a Notice has been dismissed, I must grant the landlord an order of possession.

I find that the landlord is entitled to and I therefore grant an order of possession for the rental unit effective **two (2) days after service on the tenants**.

Should the tenants fail to vacate the rental unit pursuant to the terms of the order after it has been served upon them, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

The tenants are **cautioned** that costs of such enforcement, **such as bailiff fees**, are recoverable from the tenants.

As the tenancy is ending, I dismiss without leave to reapply the portion of the tenants' application for an order suspending or setting conditions on the landlord's right to enter the rental unit and authorization to change the locks to the rental unit, as these issues relate to an ongoing tenancy.

I dismiss the tenants' claim for \$100 for monetary compensation. Upon review of this claim, the tenants applied for reimbursement of office supplies, registered mail expenses, and photocopying expenses, listed in the amount of \$61.65.

The dispute resolution process allows an applicant to claim for compensation or loss as the result of a breach of Act and not for costs for the reimbursement of expenses related to disputes arising from tenancies other than the filing fee.

I dismiss the tenants' claim for to recover the cost of the filing fee as one was not paid.

### Conclusion

For the reasons stated above, the tenants' application seeking cancellation of the Notice is dismissed, without leave to reapply.

The landlord has been issued an order of possession for the rental unit, effective two days after service on the tenants.

The balance of the tenants' application is dismissed without leave to reapply, for the reasons stated above.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 23, 2021

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Residential Tenancy Branch