



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 51 minutes. The landlord and the landlord's two agents, "landlord KP" and "landlord AG," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 11:00 a.m. and ended at 11:51 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord, the landlord's two agents, and I were the only people who called into this teleconference.

The landlord and her two agents all called from the same telephone line and passed the phone to each other to provide testimony and submissions at this hearing.

The landlord confirmed her name, spelling, and the rental unit address. She stated that she owns the rental unit. She provided a signed, written authorization, dated October 7, 2021, stating that both of her children, who appeared as her agents at this hearing, had permission to speak on her behalf.

Landlord KP confirmed her name, spelling, and the rental unit address. She stated that she is the daughter of the landlord and that she had permission to speak on her behalf at this hearing. She provided her email address for me to send this decision to the landlord after the hearing.

Landlord AG confirmed his name and spelling. He stated that he is the son of the landlord and that he had permission to speak on her behalf at this hearing.

At the outset of this hearing, I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure*. The landlord affirmed, under oath, that she would not record this hearing.

At the outset of this hearing, I explained the hearing process to landlord KP, who identified herself as the primary speaker at this hearing. She had an opportunity to ask questions. She did not make any adjournment or accommodation requests.

Landlord AG testified that he witnessed the landlord personally serve the landlord’s application for dispute resolution hearing package to the tenant on September 18, 2021. The landlord provided a signed, witness proof of service to confirm same. In accordance with section 89 of the *Act*, I find that the tenant was personally served with the landlord’s application on September 18, 2021.

Landlord AG testified that he witnessed the landlord personally serve the tenant with the landlord’s One Month Notice to End Tenancy for Cause, dated July 28, 2021 (“1 Month Notice”) on the same date. The landlord provided a signed, witness proof of service to confirm same. Landlord KP confirmed the effective move-out date on the notice is August 31, 2021. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord’s 1 Month Notice on July 28, 2021.

### Issue to be Decided

Is the landlord entitled to an Order of Possession for cause based on the 1 Month Notice?

### Background and Evidence

While I have turned my mind to the landlord’s documentary evidence and the testimony of the landlord’s two agents at this hearing, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord’s claims and my findings are set out below.

Landlord KP stated the following facts. This tenancy began on April 1, 2002. A written tenancy agreement was signed by both parties and it was updated in April 2017. Monthly rent in the current amount of \$570.00 is payable on the first day of each month. A security deposit of \$225.00 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. The rental unit is a bachelorette room on the upper floor of a three-level house. There are four bachelorette rooms total on the upper floor, which each include their own kitchenette and bedroom. There are three other occupants occupying the other three bachelorette rooms on the upper floor of the house. The tenant shares a bathroom with the other three occupants on the upper floor of the house. There is a two-bedroom suite on the main level of the house, occupied by other occupants. There is a three-bedroom suite on the basement level of the house, occupied by other occupants. The landlord lives next door to the rental property. Landlord KP lives next to the landlord with her children and grandchildren. Landlord AG lives above the landlord in the same house, with his own children.

Landlord KP confirmed that the 1 Month Notice was issued to the tenant for the following three reasons, as indicated on the notice:

- *Tenant or a person permitted on the property by the tenant has:*
  - *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
  - *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
  - *put the landlord's property at significant risk.*

Landlord KP testified regarding the following facts. The tenant has disrupted the peace and safety of all occupants at the rental property. The tenant screams and plays loud music at 5:00 a.m. The tenant smokes and drinks in the common areas, including the front and back of the house, as well as the stairs. The tenant threatened to burn the landlord's house down and the police were called on May 16, 2021. Landlord KP gave a warning letter to the tenant on May 17, 2021, regarding the above threat and included the police file number. The letter was provided for this hearing. The police talked to the tenant, asked him to stop his behaviour, and told the landlord that this was a residential tenancy matter that had to be dealt with at the RTB. The tenant stated that he is manic and was not taking his pills. The tenant has called the landlord a "slut," "bitch" and "whore." The tenant has said to landlord KP that he wants to "fuck the living shit out of this bitch."

Landlord KP stated the following facts. The tenant said that he will not leave the rental property and “will be dead” before he leaves. On June 28, 2021, landlord KP issued a final warning letter to the tenant stating that his smoking and drinking in the stairs and common areas of the house were not allowed. On July 28, 2021, a petition letter was signed by the four occupants living on the upper floor of the rental property and the next-door neighbor, complaining about the tenant’s behavior of noise, disturbance, yelling, screaming, foul language, and smoking. On August 10, 2021, the landlord and tenant both signed a letter stating that the tenant wanted to vacate the rental unit, and if he cleaned it, the landlord would return his security deposit and half a month’s rent, if he left by August 15, 2021. The tenant then changed his mind and said that he wanted to stay “to make the landlord's life miserable.” On October 29, 2021, the landlord wrote a letter indicating that she was scared of the tenant. Landlord KP and landlord AG are both scared of the tenant. One of the occupants in the bachelorette room of the upper floor of the rental property, moved out because of the tenant’s behaviour and was afraid to write a letter against the tenant. Another occupant moved into that same suite and moved out after two months. She provided a letter, dated November 28, 2021, on her own accord, to the landlord, regarding the tenant’s behaviour. This has caused “bad vibes” for everyone and it is getting “out of control.” On December 5, 2021, the landlord wrote a letter stating that she wanted a “restraining order” against the tenant. The landlord provided copies of the above documents for this hearing.

Landlord KP testified regarding the following facts. The tenant did not pay any rent for September 2021 to the landlord. The tenant paid rent from October 2021 to January 2022, to the landlord. The landlord issued rent receipts indicating “use and occupancy only” to the tenant from October 2021 to January 2022. The landlord provided copies of two of those rent receipts from November and December 2021, for this hearing. The landlord has already lost two tenants at the rental property on the upper floor, and she does not want to lose any more tenants, because of the tenant’s behavior. The tenant’s behaviour of yelling and swearing has continued in front of landlord KP’s children and grandchildren. In the week before this hearing, the tenant threw oranges at the car of landlord AG’s mother-in-law. This was witnessed by landlord KP’s grandchildren, who are six and nine years old. The landlord is 87 years old. All of the occupants at the rental property have complained about the tenant’s behavior.

Landlord AG testified regarding the following facts. The neighbour living next door to the rental property recently bought her house and has called the police about the tenant. She complained that the tenant was swearing at her after he was noisy, and she asked him to “be quiet” in the driveway. The tenant lashed out at her and called her a “fat bitch.” The tenant said “fuck off” to landlord AG. The tenant calls landlord AG “sparky,”

which is a reference to a dog. Landlord AG's children, who are 15 and 17 years old, witnessed the tenant "verbally abusing" landlord AG in the backyard during the summer. They have witnessed the tenant swearing and using derogatory, loud language towards landlord AG. Landlord AG is worried about his safety, he does not trust the tenant, and it has caused an "anxious environment" for everyone there.

### Analysis

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for a valid reason. As I have found one of the three reasons on the 1 Month Notice to be valid, I do not need to examine the other two reasons.

I find that the tenant significantly interfered with and unreasonably disturbed the landlord, the landlord's family, and other occupants at the rental and neighbouring properties. I find that the landlord stated detailed reasons for cause on the 1 Month Notice itself, a copy of which was provided for this hearing. I find that the landlord's two agents explained these details during this hearing, as noted below.

I accept the undisputed testimony of the landlord's two agents at this hearing. The tenant did not attend this hearing. I find that the tenant engaged in aggressive, unsafe, rude, inappropriate, threatening, and profane behaviour at the rental property. I find that this caused significant interference and unreasonable disturbance to the landlord, her children, her grandchildren, her great-grandchildren, and other occupants at the rental and neighbouring properties. As noted above, the landlord and her family members live within a close proximity of the rental property and have interacted with the tenant and witnessed his behaviour.

I accept the undisputed testimony of the landlord's two agents that the elderly landlord and her family members, including young children, as well as other occupants at the rental and neighbouring properties, do not feel safe around the tenant. I find that the tenant's behaviour causes fear and concern for the landlord, her family, and other occupants at the rental and neighbouring properties. I find that the landlord and her neighbour have called the police at least twice regarding the tenant's behaviour. The police have spoken to the tenant about his behaviour, but it has continued, even after the 1 Month Notice was issued to the tenant. I find that the tenant threatened the landlord and her property, used profane and derogatory language, and yelled at the landlord, her two agents, and other occupants and neighbours at the rental property. The tenant has continued with the above behaviour from May 2021 and as recently as the week before this hearing on January 13, 2022. The landlord and her two agents

provided specific dates and details of the above incidents, in their testimonial and documentary evidence submitted for this hearing. The landlord provided written letters from other occupants at the rental property, regarding complaints about the tenant's behaviour and their reasons for moving out or wanting to move out. The landlord provided written caution letters to the tenant, regarding his inappropriate behaviour, offering him a chance to vacate the rental unit, documenting police involvement, and confirming the tenant's request to move out. The landlord provided copies of the above documents as evidence for this hearing.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of being deemed to have the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on August 31, 2021, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by August 31, 2021.

I find that the landlord's 1 Month Notice complies with section 52 of the *Act*. I grant the landlord's application and issue an Order of Possession to the landlord, effective two (2) days after service on the tenant, pursuant to section 55 of the *Act*. The effective date of the notice has long passed.

I find that the landlord has not waived her rights to enforce the 1 Month Notice, by accepting rent from the tenant after the effective date on the notice, August 31, 2021. The tenant failed to pay rent to the landlord for September 2021. The tenant paid rent from October 2021 to January 2022, but the landlord accepted it for "use and occupancy only" and issued receipts to the tenant, indicating same. Further, the landlord did not cancel this hearing, withdraw her application, or cancel the 1 Month Notice. The landlord proceeded to this hearing and pursued an order of possession against the tenant, indicating clearly that she wanted an end to this tenancy.

### Conclusion

The landlord's application is granted.

I grant an Order of Possession to the landlord effective two (2) days after service on the tenant. The tenant must be served with a copy of this Order. Should the tenant or anyone on the premises 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: January 13, 2022

---

Residential Tenancy Branch