



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened as a result of the tenant's 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.

The hearing originally began on September 13, 2021, and was adjourned due to the length of time for legal submissions. An Interim Decision dated September 15, 2021, was made in this matter, which is incorporated by reference herein and should be read in conjunction with this Decision. This hearing was 74 minutes in length.

On January 20, 2022, the hearing scheduled for an extended time continued. The hearing could not be completed in the time allotted and was again adjourned. An Interim Decision dated January 25, 2022, was made in this matter, which is incorporated by reference herein and should be read in conjunction with this Decision. This hearing was 170 minutes.

The tenant, the tenant's advocate (advocate), the landlord's agent, and the landlord's legal counsel (counsel) attended this second reconvened hearing, which lasted 75 minutes. In addition, the landlord's witness was questioned at the final hearing by the advocate.

Prior to the start of each hearing, the parties were informed that they were not allowed to record the dispute resolution hearing.

As per the instructions given in the 2<sup>nd</sup> Interim Decision, the final hearing began with the tenant's response to the landlord's Notice.

All parties were provided the opportunity to present their evidence orally.

I was provided and reviewed a considerable amount of evidence including: documentary and oral evidence, and the relevant oral and written submissions for this dispute, all of which was reviewed. However, not all details of the parties' respective evidence are reproduced here. Further, only the evidence that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Following is a summary of those submissions and includes only that which is relevant to the matters before me.

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

#### Preliminary and Procedural Matters-

Subject to the Rules and requirements of the Act, after consideration of any evidentiary and preliminary matters, the landlord is to proceed first in the hearing as the landlord bears the onus of proving the merits of the Notice.

At the first reconvened hearing, counsel chose to examine the tenant as an adverse, or hostile, witness to begin the landlord's support of the Notice. The advocate objected to questioning the tenant, as this was not the normal procedure in this type of hearing.

I allowed the counsel's examination of the tenant to start, as I find it inappropriate to interfere with how the landlord chose to proceed in support of their Notice. I am unaware of any published Rules that would prohibit such a line of questioning.

I find it important to note that after the conclusion of the tenant's testimony in full response to the landlord's Notice, I determined that I had heard sufficient evidence in the lengthy hearing to make a Decision on the Notice. In total, the hearing lasted 319 minutes, or 5 hours 19 minutes, over three hearings on September 13, 2021, January 20, 2022, and February 22, 2022.

The advocate objected as he had not provided a final oral submission. Of note, as well, counsel had earlier in the hearing indicated that he wanted to continue with examination of the tenant at the final hearing and provide closing arguments.

I find evidence is the legal word for things that prove what happened during the tenancy. Evidence may be what the parties or their witnesses say in the hearing, or it may be in documentary or photographic form or in digital format.

I elected to conclude the hearing. I find that any final summaries, arguments, or submissions are not evidence, but rather would be statements of the respective positions of the parties. I make my Decision based on the relevant oral and written evidence before me at the conclusion of the tenant's full response to the Notice and the landlord's evidence.

#### Issue(s) to be Decided

1. Should the 1 Month Notice issued in this matter be upheld or cancelled?
2. If upheld, should the landlord be granted an order of possession of the rental unit (Order)?

#### Background and Evidence

This tenancy began on October 1, 2017. Filed in evidence was a copy of the written tenancy agreement. The landlord is a housing society.

A copy of the Notice was filed in evidence and was issued pursuant to Section 47(1) of the Act for the following reasons:

Tenant or a person permitted on the property by the tenant has:

- Significantly interfered with or unreasonable disturbed another occupant or the landlord
- Seriously jeopardized the health or safety or lawful right of another occupant or the landlord

Tenant has engaged in illegal activity that has or is likely to

- Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

- Jeopardize a lawful right or interest of another occupant or the landlord
- Has caused extraordinary damage to the unit or property

Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord listed on the Notice the following details of causes:

*Harrassment of a female tenat apartment #\*\*\* by (tenant name) on February 1, 2021. VPD File # (21-\*\*\*\*7) Letter of February 2, 2021 from RB, Community Worker, (landlord name). (Tenant name) approached a tenant on three occasions, in the elevator, at her apartment door and followed her through the stair well yelling at her. She felt very unsafe. In (tenant name) letter of February 3, 2021, "I did not assure you I wouldn't be having further contact with the tenant and was not going to change my way of doing things". Which shows that after being asked in writing to stop contacting the other tenant he has not corrected the breach within a reasonable time after written notice to do so. Second letter to (tenant name) of February 4<sup>th</sup>, 2021 confirming agreement of no contact of female tenant.*

*March 12, 2021, threatening letter received by same female tenant. Police call and attended VPD File number (21-\*\*\*\*0).*

*In our letter of March 19<sup>th</sup>, 2021, we asked to meet with (tenant name) on March 23, 2021. You responded in writing on March 22<sup>nd</sup>, 2021 advising us that you did not intend to meet with us now or in the future stating that a request to meet was "deliberate and intentional bullying on the part of (landlord name) against you".*

*Taking into account all of the circumstances, we reasonably believe that a letter of March 12, 2021 written to the female tenant containg threats that advise that the female tenant is being stalked and will be harmed-was prepared, instigated and/or motivated by you.*

*We received further notificatin on March 25, 2021 that another call had been placed to the VPD by the same female tenant in regards to your alleged behaviour on the evening of March 24, 2021 towards this tenant.*

*As you have not complied with our request to have no contact with this tenant in #\*\*\* and continue your harrasment of her - (landlord name) is issuing this Notice to End Tenancy ending tenancy onb May 31, 2021.*

[Reproduced as written except for anonymizing personal information to protect privacy]

The Notice was dated April 22, 2021, for an effective date of May 31, 2021, and served upon the tenant by registered mail. The tenant confirmed receipt of the Notice on April 27, 2021.

For the second hearing on January 20, 2022, the landlord had several staff members ready to testify as witnesses. Due to the length of the hearing, the witnesses were unable to provide their testimony in support of the landlord's Notice.

During the second period of adjournment, the landlord, through counsel, was permitted to provide statutory declarations of the witnesses in place of having the witnesses appear and testify at the next reconvened hearing.

"... upon the agreement that the statutory declarations of their witnesses to be submitted by counsel will suffice as their evidence".

**[reproduced from Interim Decision of January 25, 2022]**

- 4. I ORDER** counsel is permitted to submit statutory declarations from the parties the landlord listed as witnesses, and if the advocate deems it necessary, the advocate is permitted to provide responses to those declarations.
- 5. I ORDER** counsel to serve these additional documents to the Residential Tenancy Branch (RTB) and the tenant's advocate so that they are received by both at least **fourteen (14) days** prior to the next hearing.
- 6. I ORDER** the tenant's advocate to serve any responses to these documents to the RTB and counsel so that they are received by both at **least seven (7) days** prior to the next hearing.

**[reproduced from Interim Decision of January 25, 2022]**

During the second period of adjournment from January 20, 2022 to February 22, 2022, the landlord submitted three statutory declarations from staff of the landlord. The

advocate was permitted to provide a response to the statutory declarations also during the period of adjournment. None were provided.

Filed in evidence additionally from the landlord was a 70-page package.

As an introduction in their evidence package, counsel submitted the underlying basis for ending the tenant's tenancy "was his threatening and harassing behaviour and conduct towards a female tenant of the (*housing society*) and his response to efforts made to have that behaviour cease. Despite police complaints and repeated requests by the other tenant and (*housing society*) staff that (tenant) stop his behaviour, it did not stop".

[Reproduced as written except for anonymizing names to protect privacy]

The female tenant noted above will hereafter be referred to as "L" in the balance of this Decision.

The tenant and L both resided on the 6<sup>th</sup> floor in the residential property.

In their evidence package served on the tenant through their advocate, counsel provided a written summary of events and timelines, signed by the executive director, which is reproduced in relevant part as follows:

**In December of 2020** Page 20 - ██████████ had knocked on the door of the tenant in unit #██████ he knew her name and where she lived and asked her over to his place to watch a hockey game - which she politely declined, previously only saying hi once in the elevator. In January 2021 in the elevator ██████████ asked her out for coffee. On both occasions ██████████ notes that she declined. Knocking on her door made her uncomfortable as she had not provided him with her name or where she lived.

**February 1, 2021** – Page 20/21 - Incident report from ██████████ - Suite number ██████████ reporting that she felt scared by ██████████ after he was waiting for the elevator he followed her when she exited by the stairwell, shouting at her 'that she was avoiding him and acting like a child' as she ran down 6 flights of stairs to the office with ██████████ following her.

**February 1, 2021** – Page 22 - Incident report from Community Worker, ██████████ confirming incident and that ██████████ was shaken up.

**February 1, 2021** – Police incident number VPD File number 21-████████ provided by ██████████



**February 2, 2021** – Page 23 - Letter to [REDACTED] asking that he meet with [REDACTED] Manager of Tenant Services and [REDACTED] Community Worker.

**February 2, 2021** – Page 24 - Letter to [REDACTED] from [REDACTED] confirming meeting discussions of Feb. 2<sup>nd</sup>

**February 3, 2021** – Page 25 - Letter from [REDACTED] to [REDACTED] advising "I said I'm not going to change my way of doing things and its impossible to avoid contact with a tenant who lives on the same floor - going on to further say – 'that any request or demand to stay away from people violates my freedom and rights as a tenant'. 'Most people would be grateful to get invited somewhere.'

**February 4, 2021** – Page 26 - Letter from [REDACTED] re-iterating her discussion of Feb 2<sup>nd</sup> with [REDACTED]

**March 12, 2021** – Page 27 – Incident Report – [REDACTED] - Life threatening letter to # [REDACTED] – [REDACTED] received in mailbox - Page 28 copy of the envelope and letter.

**March 12, 2021** – Page 29 - Incident report written by [REDACTED] /weekend security advising that [REDACTED] had called the police

**March 12, 2021** – VPD incident VPD File number 21-[REDACTED] – see page 66 Police Report

**March 19, 2021** – Page 30 - Letter to [REDACTED] from [REDACTED] Manager of Tenant Services requesting meeting on March 23, 2021

**March 22, 2021** – Page 31 - Letter to [REDACTED] from [REDACTED] revising meeting time

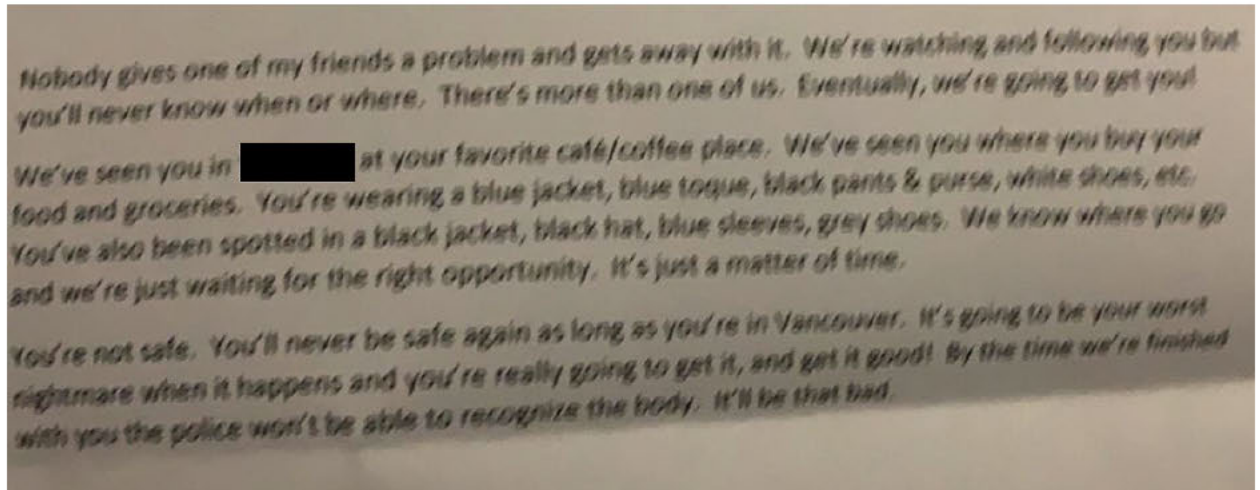
**March 22, 2021** – Page 32 - Letter from [REDACTED] alleging harrassment and refusing to meet with [REDACTED] or [REDACTED] Quote from letter - 'You have women staff at [REDACTED] making decisions against men in the building...Sure looks like there's a whole lot of gender discrimination going on here against the men and not the women which is obvious to the people who live here and it stinks! You people think that you're shit don't stink?'

**March 24, 2021** – Page 33 - email from [REDACTED] reporting that she had made another police report about [REDACTED] as he was staring and laughing at her making her scared.

**March 24 & 25<sup>th</sup>, 2021** – Page 34 - incident report [REDACTED] Security confirming report of March 24<sup>th</sup> by [REDACTED]

**March 25, 2021** – Page 35 - email [REDACTED] confirming security support from [REDACTED] for [REDACTED] move.

The “Life threatening letter” referred to above will hereafter be referred to as the “threat-of-harm” letter. The threat-of-harm letter is reproduced as follows:



Nobody gives one of my friends a problem and gets away with it. We're watching and following you but you'll never know when or where. There's more than one of us. Eventually, we're going to get you!

We've seen you in [REDACTED] at your favorite café/coffee place. We've seen you where you buy your food and groceries. You're wearing a blue jacket, blue toque, black pants & purse, white shoes, etc. You've also been spotted in a black jacket, black hat, blue sleeves, grey shoes. We know where you go and we're just waiting for the right opportunity. It's just a matter of time.

You're not safe. You'll never be safe again as long as you're in Vancouver. It's going to be your worst nightmare when it happens and you're really going to get it, and get it good! By the time we're finished with you the police won't be able to recognize the body. It'll be that bad.

The landlord also submitted a copy of the handwritten envelope containing the threat of harm letter.

Additional evidence filed by the landlord included:

- the written tenancy agreement signed by the parties;
- a 2-page incident report made by L, dated February 1, 2021, containing a complaint about the tenant;
- multiple letters from the landlord's staff to tenant addressing the issues surrounding complaints from L and requesting meetings with the tenant;
- an incident report made by L, dated March 12, 2021, containing a complaint about the tenant regarding receipt of a “threatening letter”;
- a written report from DR, the weekend and night security guard for the residential property, reporting that L received a threatening letter and that she called the police;
- a letter from the tenant, dated March 22, 2021, refusing a meeting with the landlord's staff;
- a security report from DR reporting the behaviour of the tenant as L was moving from the residential property;
- emails from L about the tenant's behaviour while moving out;



- a detailed letter from the executive director of the landlord which accompanied the Notice served to the tenant; and
- a copy of a police report dated March 24, 2021, naming the tenant as the subject of the complaint;
- a statutory declaration from NS, who is a community worker for the landlord for three and a half years;
- a statutory declaration from RB, who is a community worker for the landlord for four and a half years; and
- a statutory declaration from DR, who is a weekend and night security guard for the landlord for 11 years.

**Responses to counsel's examination of the tenant as an adverse witness include-**

The tenant said that he has lived in 3-4 other locations and was evicted once before because he got mad at the landlord's children. The tenant submitted he has made approximately 6 complaints since the start of this tenancy.

The tenant confirmed the various handwriting samples in the evidence was his handwriting, with the exception of the envelope containing the threat-of-harm letter. Samples included letters the tenant sent to the landlord's agents, the Board members, the envelopes used for those letters, and the tenancy agreement.

The tenant said that he had nothing to do with drafting the threat-of-harm letter or having it sent. The tenant said he had no knowledge of the letter whatsoever.

The tenant submitted he knocked on L's door in December 2020, to invite her to watch a hockey game in his apartment, and confirmed knowing her name from seeing package delivery notices. The tenant said that L had a smile on her face when she declined his invitation.

The tenant said that when he was on the elevator with L in January 2021, he said he asked L if she preferred coffee or tea and he asked her out for coffee. L declined, saying "I'm good". The tenant denied propositioning L.

The tenant said that on February 1, 2021, he was waiting for the elevator on the 6<sup>th</sup> floor, where both he and L live, when L turned the corner and decided to take the stairwell.

The tenant said he was not yelling or screaming at L. The tenant when asked by counsel if he knew L was uncomfortable, said "I was just going down the stairs", though he asked L "are you deliberately avoiding me?", "if you are, that is pretty childish and pretty immature", "I invited you for coffee, are you offended?".

Counsel asked if it was made clear to him that L was uncomfortable, and the tenant said, yes. As to the letters he wrote to the landlord's staff after they requested a meeting, the tenant said he was not happy about their letters, but decided to stay away from L. The tenant said he thought he was wrongfully accused.

As to the letters the tenant wrote to Board members, he agreed that parts of those letters were aggressive and confrontational, and parts were not.

As to the time in late March 2021, when L moved out, the tenant said he was surprised when he discovered she was moving out, as no one told him.

The tenant said he was only sitting outside of the building on one street and L's moving truck was on another street. The tenant confirmed that the police were called to the residential property. The tenant confirmed that security was in attendance on March 25, 2021, when L finally moved out of the residential property.

The three statutory declarations filed by the landlord are reproduced in relevant part as follows:

*Statutory declaration of NS –*

NS declared that they have been employed by the landlord for 3 ½ years to provide tenant services.

Within the statutory declaration, NS declares the following, in part:

4. On or about February 1, 2021, I was in my office with the door open, collecting rent from the tenants. As I turned around, I saw L. out of breath, scared, and shaken up with the rent cheque in her hand. I asked her if she was okay. She advised me that she was not and that a tenant had just ran after her down the stairs. I did not see anyone behind her, but as I went out of my office and looked

around the corner, I saw [REDACTED] running out of the back door as he glanced back while opening the door.

5. When I returned to my office, L. was still shaken up and scared. I noticed her nervousness through her voice, facial expression, and body gesture.
6. I accompanied her to the library so I could talk one on one with her more privately. I told her that I saw [REDACTED] L. then informed me of the following:
  - a) One time, L. and [REDACTED] had been in the elevator together and had shared some small talk.
  - b) On a later day, [REDACTED] randomly knocked on her door and invited her to watch a hockey game together to which she responded no.
  - c) On a different day, while sharing the same elevator, [REDACTED] invited her to get coffee, which she declined.
  - d) L. was scared to live in her suite.
  - e) On February 1, 2021, when L. saw [REDACTED] in the elevator, she decided to take the stairs instead. But [REDACTED] came after her, running down the stairs and yelling that she is making a big deal and that she should not be a baby.
7. I encouraged L. to write an incident report and deliver the incident report to me. However, L. was reluctant to do so. I believe that she was reluctant as she was fearful for her safety if she submitted an incident report. I prepare an incident report. Attached and marked as **Exhibit "A"** is a true copy of the incident report that I prepared regarding this incident on February 1, 2021 involving L. and [REDACTED]
8. I understand that L. ultimately did complete a formal incident report. It is attached to the statutory declaration of my co-worker, [REDACTED]
9. I shared the incident with my co-worker, [REDACTED] I also advised L. that I would discuss the incident with my manager, [REDACTED]
10. On or about Monday, March 15, 2021, L. gave me an incident report concerning the threatening letter she received on the evening of Friday, March 12, 2021. Attached and marked as **Exhibit "B"** is a true copy of the incident report

11. Prior to completing the incident report that I received on or about March 15, 2021, L. had emailed me and my manager, [REDACTED], with photos of the threatening letter she received on March 12, 2021 and the envelope that contained the letter. Attached and marked as **Exhibit "C"** is a true copy of the photos of the threatening letter L. received on March 12, 2021 and the envelope that contained the letter.
12. On or about March 15, 2021, L. told me that she provided the original of the threatening letter and envelope to the Vancouver police who attended on March 12<sup>th</sup>. When I met with her and discussed the incident report and the threatening letter, L. seemed very scared of Mr. [REDACTED] and feared for her safety. I advised her to call us or the police if there is another incident. I gave the incident report to my manager, [REDACTED]

*Statutory declaration of RB –*

RB declared they have been employed by the landlord for 4 ½ years, to act as agent, running tenant programs and interviewing applicants.

Within the statutory declaration, RB declares the following, in part:

5. On February 1, 2021, while I was in the staff room warming up my lunch, I saw L. come out of the stairwell across the hall from the staff room, who then stopped to talk to my co-worker, [REDACTED]. I also saw [REDACTED] exit the stairwell shortly after.
6. Later on February 1, 2021, I spoke with L. when she came to my office door. She told me that [REDACTED] had followed her down the stairs from the sixth floor and was yelling after her. She indicated to me that she felt scared and was avoiding [REDACTED] who shouted at her that she was being childish and immature. Subsequently, I received an incident report regarding this incident from L.
7. Attached and marked as **Exhibit "B"** is a true copy of the incident report I received from L. on February 1, 2021.



8. On February 2, 2021, I posted a letter on the door of [REDACTED] unit, requesting that he meet with me and my manager to discuss the February 1<sup>st</sup> incident. Attached and marked as **Exhibit "C"** is a true copy of the letter.
9. Later that morning, [REDACTED] came to see me and indicated he was unavailable to meet that afternoon and did not want to wait to discuss the incident. Therefore, I met with him at that time.
10. During my meeting with [REDACTED] on February 2, 2021, I told him that his interaction with L. both before and on February 1 made her feel uncomfortable and scared. I asked him to refrain from having any contact with L. moving forward and advised him that we want all tenants to feel safe and comfortable while at home and in the common areas. He indicated that he did not think avoiding contact was possible because they lived on the same floor and refused to avoid contact with L. I also asked for his side of the story to which he responded that it was not a crime to invite someone out and that he was just speaking to, rather than yelling at, her in the stairwell. I reiterated that his actions made L. feel very uncomfortable and repeated my request for him to avoid having contact with her. He nodded at the end of the meeting and I again repeated the request.
11. Also on February 2, 2021, I posted a letter on [REDACTED] door, summarizing what we had discussed in our meeting as well as my requests made at the meeting. Attached and marked as **Exhibit "D"** is a true copy of the letter I posted on [REDACTED] door after our meeting on February 2, 2021.
12. On February 3, 2021, I found a letter from [REDACTED] under my office door. Attached and marked as **Exhibit "E"** is a true copy of the letter from [REDACTED] dated February 3, 2021.
13. On February 4, 2021, I posted another letter on [REDACTED] door, explaining that the reason the landlord became involved in the stairwell incident was that the police had asked us to address it prior to any involvement from them. I also addressed points raised in [REDACTED] February 3 letter whereby he stated that the stairwell incident happened months ago. I also advised him that we will involve the police in any future incidents with him. Attached and marked as **Exhibit "F"** is a true copy of my letter to [REDACTED] dated February 4, 2021.



*Statutory declaration of DR –*

DR declared that they have been employed by the landlord for 11 years as a weekend and night security guard.

Within the statutory declaration, DR declares the following, in part:

4. On March 12, 2021 at or around 8:00 pm, I received an emergency call from L., stating that she was being harassed by [REDACTED]. She sounded very scared, stressed, and worried for her safety. I advised L. to call the police.
5. After speaking with the police on March 12<sup>th</sup>, L. called me back, again sounding very stressed and worried. She advised me that this was not her first time being harassed by [REDACTED] and that she had received a letter from [REDACTED] in which he threatened her life. I advised her that, at any time of the day or night, she should call the police if she is concerned about her safety and then call me on the emergency line and I would guard by her door until the police arrived.
6. Attached and marked as **Exhibit "A"** is a true copy of a report I prepared regarding the March 12, 2021 incident.
7. On March 25, 2021 at or around 7:45 pm, L. called me to request my presence in order for her to move some of her belongings out of her unit without trouble. After L. and her friend moved her belonging into the hallway, I locked off one of the elevators in the building to allow them to move her belongings into the elevator. As they were moving, [REDACTED] exited a different elevator and looked towards us. When we got to the lobby of the building, [REDACTED] also came down to the lobby and exited through the back door. L. and her friend then proceeded to move her belongings to her car parked on [REDACTED] Street. While waiting for them, I then received a phone call from L. advising me that [REDACTED] was watching them. I went outside and saw [REDACTED] sitting on one of the benches watching them. [REDACTED] left after about two minutes of me being there. I heard extreme stress in L.'s voice on the phone. When I saw L. outside, I could feel her stress and lack of composure because [REDACTED] was watching her and her female friend.
8. Attached and marked as **Exhibit "B"** is a true copy of a report I prepared regarding this incident on March 25, 2021.

9. In the morning of March 26, 2021, as L. moved the balance of her belongings, [REDACTED] was in and out of his unit four different times, watching while the movers moved L.'s belongings. Staff was on the sixth floor and the main floor to ensure that L. could feel safe.
10. After L. moved out, [REDACTED] has not spoken to me. However, he passes me daily and gives me a sideways look.

**Tenant's responses to the landlord's Notice and documentary evidence –**

*The tenant's advocate examined RB, as follows:*

RB said the building had a coffee/tea-room/lounge for the tenants' use. RB confirmed that the door entering the 6<sup>th</sup> floor from the stairwell is locked, and that the stairwell can be accessed from the 6<sup>th</sup> by the unlocked door entering the stairwell.

RB said they were employed by the landlord for the entire tenancy of the tenant.

*The advocate examined the tenant as follows:*

The tenant said that he learned of L's name and address by looking through the packages and mail notices by the mailboxes and attachments on the front door.

The tenant said his first encounter with L was when he knocked on her door inviting her to watch a hockey game. The tenant said he had no idea L felt uncomfortable.

The second encounter with L was in the elevator. The tenant said that L was waiting with her skis, and in the elevator, he asked L out for coffee or tea. L responded by saying "I'm good".

The third encounter with L occurred when he was waiting for the elevator, at which time L approached and the tenant said "she decides she is going down the stairwell".

The tenant said he then went down the stairwell, as he often does, and asked L "are you deliberately avoiding me?". The tenant then said he told L, "well if you are, that is childish and immature". The tenant said he then told L, "Well, I invited you, were you offended?"

The tenant said that L told him to stop following her, and the tenant said, "I'm not following you."

The tenant said that he never saw L again and he stopped contacting her because of the warning letter.

The tenant denied the envelope containing the threat-of-harm letter was in his handwriting, while pointing out the differences in the examples in the landlord's evidence.

The tenant said that it is normal for him to go out of the building 3-4 times a day, in response to the events surrounding L's move from the building. The tenant denied leaving the building or returning due to L's move. The tenant said he only heard from the landlord there was an issue and there had been nothing in months.

The tenant said he enjoyed small talk.

*Cross-examination of tenant from counsel –*

The tenant said he obtained the redacted police report from March 24, 2021, when L was moving from the residential property. The tenant said that the "police reminded me that I was not to talk to L, and I haven't".

In response, the tenant said that the police knocked on his door between March 12-15, 2021 about a complaint from a tenant who had received a threat. The tenant said he told the police that he had no contact with the tenant, and in response, the police officer said that "well, if you do, we will be back".

The tenant confirmed that he had a copy of a police report from between March 12-15, 2021, but did not file the report.

Filed in evidence by the tenant was a copy of the Notice, the February 2, 2021, letter from RB to the tenant, the February 3, 2021, letter from the tenant to the landlord, and a 3-page police report from March 24, 2021.

### Analysis

I have carefully reviewed and considered the relevant oral and written evidence submitted by the parties.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. Where a tenant applies to dispute a One Month Notice to End Tenancy for Cause, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the Notice is based.

Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanor as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

At most, one version of events can be true. In weighing the evidence, I must determine the credibility of the witnesses. The often cited test of credibility is set out in *Faryna v Chorny*, [1952] 2 DLR 354 (BCCA) at 357:

The real test of the truth of the story of a witness... must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

The Notice in this dispute was issued under sections 47(1)(d)(i) and (ii), (e)(ii) and (iii), and (h) of the Act. Having reviewed a copy of the Notice, I find it was on the RTB approved form with content meeting the statutory requirements under section 52 of the Act.

I find this dispute centers around whether the actions of the tenant significantly interfered with or unreasonably disturbed or seriously jeopardized the health, or safety or lawful right of another tenant, L.

#### **Tenant's requests for dates and/or get-togethers with L –**

The evidence shows a pattern of the tenant engaging with L in attempts for dates or get-togethers. The first known instance occurred when the tenant knocked on L's door in December 2020, to invite her to his rental unit to watch a hockey game, which was

during the first year of Covid restrictions under public health orders. L declined the invitation.

The tenant explained that he thought the tenant would be interested in watching the game as the tenant's country of origin was playing Canada. The tenant said he learned of L's name and unit number when going through mail in the mail room and looking at notices attached to the door. When questioned, the tenant said this is not uncommon, as packages are sometimes left in front of the mailboxes. I do not find this statement has the ring of truth. I would find this assertion more believable if the tenant, for instance, indicated that he knew other tenants' names or unit numbers by looking at packages and notices, which the tenant failed to do.

The tenant then asked L out for coffee while in the elevator, which L declined.

### **February 1, 2021 –**

The next confirmed occurrence with L was on February 1, 2021, when the tenant said he was waiting for the elevator. Upon seeing L approach the elevator/stairwell area, L avoided the elevator and instead, went down the stairwell.

The tenant then took it upon himself to follow L down the stairwell. The evidence from the tenant was that L told him to stop following her.

Instead of waiting for L to finish walking down the stairs, the tenant chose to continue engaging with L. The tenant confirmed he asked L, "are you deliberately avoiding me?", "if you are, that is pretty childish and pretty immature", "I invited you for coffee, are you offended?".

The tenant tried to pass these statements off as insignificant. However, I find the questions and statements the tenant admitted making to L down the stairwell had a personal tone and were aggressive and confrontational. It does not make sense that the tenant would ask these type questions or make such statements to this tenant without having personal motives. I find this occurrence was substantially more than just a tenant engaging in "small talk" with another tenant.

I find the evidence leads me to conclude that the tenant actively sought out L's name and unit number in order to initiate an interaction with her. From the significant evidence before me, I find the tenant was well aware that L did not want any



communication with him, yet the tenant persisted in pursuing L. I also find the evidence supports that L communicated to the tenant that she was not interested in the tenant.

I have reviewed the tenant's letter of February 3, 2021, to the landlord, in which he said he was only "talking" to L in the stairwell. I find this letter contradicts and is inconsistent with the testimony of the tenant. I find the questions and statements made by the tenant to L while she was hurrying down the stairwell to avoid the tenant were not conversational in any way. Rather I find the consistent and undisputed evidence taken from the uncontested statutory declarations is that L hurriedly exited the stairwell, looking "out of breath, scared, and shaken", and was quickly followed by the tenant. It does not make sense that L was frightened of the tenant absent any reason. Consequently, I find the tenant's testimony does not have the ring of truth.

For the above reasons, as I find the tenant's evidence contradictory and inconsistent, I find the tenant's evidence is not credible or reliable. The tenant admitted to following L down the stairwell and he confirmed that he chose to engage with this tenant down the stairs, asking inappropriate questions under the circumstances. I find this behaviour unreasonable.

As a result, I find the landlord submitted sufficient evidence that the tenant had unreasonably disturbed and significantly interfered with another occupant.

Additionally, for the reasons that the tenant searched out L's name and unit number through packages left for the tenants in the building and due to the tenant's personal and inappropriate interaction with L down the stairwell, I find it reasonable to conclude that the tenant targeted L.

### **Statutory declarations –**

The tenant provided no dispute or response to the statutory declarations, and I therefore accept them as uncontested evidence from the landlord's witnesses.

### **Statutory declaration 1–**

NS, a community worker for the landlord, recounted the events on February 1, 2021. NS declared that when they were in their office collecting rent cheques from tenants, they observed L "out of breath, scared, and shaken". According to NS, L said that the tenant had run after her down the stairs. NS said that they observed the tenant then running

out of the back door. L told NS that the tenant told her she should not be a baby. NS encouraged L to write an incident report, which she ultimately did.

NS then declared that L provided another incident report on March 15, 2021, about a threatening letter she received on March 12, 2021. NS declared that L stated that the threatening letter and envelope were turned over to the police department.

I find this statutory declaration supports the landlord's Notice that the tenant acted inappropriately and unreasonably disturbed another occupant.

### **Statutory declaration 2–**

RB, a community worker for the landlord for four and a half years, declared that on February 1, 2021, she observed L come out of the stairwell and talked to NS, while also observing the tenant exit the stairwell shortly after. RB declared that later on February 1, 2021, she spoke with L, who indicated she felt scared and was avoiding the tenant, who was shouting at her down the stairwell. RB said they received the incident report from L, which was attached to the statutory declaration.

RB declared that on February 2, 2021, they posted a letter to the door of the tenant asking to meet with the tenant. The meeting was about the tenant's interaction with L and asked the tenant to avoid contact with L.

This statutory declaration also came with an incident report from L and the responsive letter of February 3, 2021, from the tenant.

I find this statutory declaration supports the landlord's Notice that the tenant unreasonably disturbed another occupant.

### **Statutory declaration 3–**

DR, an employee of the landlord for 11 years, works as weekend and night security guard. DR declared that they received a call from L on March 12, 2021, at around 8:00 pm. DR stated that L sounded very scared, stressed, and worried for her safety. DR said that L informed him that she received a letter from the tenant which threatened her life. DR stated that he advised L to call the police.

DR states that L asked his presence when moving from the residential property on March 25, 2021. DR states that when L was moving, the tenant was in and out of the building, looking at L. Another time, DR states that the tenant was sitting outside watching L as they moved belongings. DR states that on March 26, 2021, as L moved the balance of her belongings, the tenant was in and out of his unit four different times, watching while L's movers removed the belongings. DR stated that staff were present on L's floor and the main floor to ensure that L was safe.

I find this statutory declaration supports the landlord's Notice that the tenant unreasonably disturbed another occupant.

**Anonymous threat-of-harm letter sent to L –**

The tenant denied that he sent L the anonymous, threat-of-harm letter in March 2021, which threatened egregious, bodily harm to L. The tenant asserted that the handwritten address on the envelope shows that he did not send the letter as the digits and letters did not match his handwriting. I disagree. I have thoroughly reviewed the many examples of the tenant's handwriting filed in evidence and find that the tenant's writing is not consistent even within the same document, lines, and words. I also found similarities in some of the tenant's handwriting compared to the writing on the envelope.

The letter sent to L came after L rebuffed the tenant's requests for dates, the incident in the stairwell, in which L rebuffed the tenant's attempts to engage, after the tenant received letters from the landlord's staff to meet about his behaviour, and after a police complaint was made by L about the tenant. As I have found the tenant targeted L and that the tenant's evidence was not reliable, I find it more likely than not that the tenant sent, or caused to be sent, the threat-of-harm letter to L. For this reason, I accept that L feared for her safety, which resulted in her moving out of the rental unit.

I therefore find the threat-of-harm letter supports the landlord's Notice that the tenant unreasonably disturbed another occupant and seriously jeopardized the health, safety, and lawful right of another occupant.

Based on the totality of the evidence before me, I find the landlord has submitted sufficient evidence to prove on a balance of probabilities that the tenant has unreasonably disturbed another occupant and seriously jeopardized the health, safety, and lawful right of another occupant.

As I have found the landlord submitted sufficient evidence to support two of the causes listed on the Notice, I find it was not necessary to consider the other causes.

For this reason, I **dismiss** the tenant's application requesting cancellation of the Notice, without leave to reapply, as I find the One Month Notice dated April 22, 2021 valid, supported by the landlord's evidence, and therefore, enforceable. I therefore uphold the Notice and I **order** the tenancy ended on the effective date of that Notice, or May 31, 2021. I also find the Notice complies with section 52 of the Act.

Pursuant to section 55(1)(b) of the Act, I grant the landlord an order of possession of the rental unit (Order), effective **two (2) days after service on the tenant**.

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

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

### **Conclusion**

The tenant's application is **dismissed without leave to reapply**. The landlord has met the statutory requirements to end the tenancy and is granted an order of possession of the rental unit, effective **two (2) days** after service on the tenant.

The tenancy ended on May 31, 2021.

This Decision will be emailed to both parties at the email address confirmed by the parties at the hearing.

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(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 9, 2022

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Residential Tenancy Branch