



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FFT

### Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Per section 95(3) of the *Act*, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

Both parties confirmed their email addresses for service of this Decision.

The landlord testified that she was served with the tenant's application for dispute resolution and evidence. I find that the landlord was sufficiently served for the purposes of this *Act* with the above documents, pursuant to section 71 of the *Act* because receipt was acknowledged.

The tenant testified that she was served with the landlord's evidence. I find that the tenant was sufficiently served for the purposes of this *Act*, with the landlord's evidence, pursuant to section 71 of the *Act* because receipt was acknowledged.

Neither party raised any issues with the timing of any of the above service.

#### Preliminary Issue- Naming of Parties

The tenant listed her 11-year-old son as a tenant in this application for dispute resolution. The tenant's son is an occupant and not a tenant. Pursuant to section 64 of the *Act*, I remove the tenant's son from the dispute.

#### Issues to be Decided

1. Is the tenant entitled to cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*?
2. Is the tenant entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?

#### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on July 30, 2021 and is currently ongoing.

The landlord testified that she served the tenant with a One Month to End Tenancy for Cause (the "Notice") via registered mail. The landlord did not know on what date the Notice was mailed but thought it was in February 2022. The tenant testified that she received the Notice via registered mail but could not recall on what date, but that it was likely in February 2022.

The Notice was entered into evidence and states the following reason for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord.

The details of cause section of the Notice states:

- [The tenant] was uncooperatively for monthly inspection by threatening agent [E.] while she was delivering notice to tenant on October 26, 2021. Video evidence can be provided. 2. [The tenant] language abused [the landlord] and distorted the facts in the email sent on Jan 25, 2022. 3. [The tenant] kept harassing [the landlord] since July 2021, even before she moved in, landlord can not maintain her mental health due to the anxiety caused by tenant. Emails evidence can be provided. 4. Tenant refused to pay the correct amount of utilities and called garbage when landlord sent her the water bills on Jan 30, 2022.

[reproduced as written]

The landlord testified that she is seeking an Order of Possession for cause because the tenant unreasonably disturbed her a lot.

The landlord testified that the move in date was July 30, 2021 but the tenant asked if she could move some items in earlier.

The landlord testified that the tenant left some boxes in her driveway and asked the landlord to clean them up. Photographs of same were entered into evidence. The tenant testified that the boxes were the landlord's, not hers.

The landlord testified that her cousin and sometimes agent ("E.") delivered an inspection notice to the tenant and the tenant threatened to call the police on her.

The tenant testified that she called the police on E. because E. stood in front of the property video taping her for 20 minutes and refused to leave.

The landlord testified that the tenant asked for the porch light on the suite below the subject rental property to be left on, even though it was not the tenant's rental unit. The tenant testified that she requested the porch light be left on for security. An email exchange detailing the above request was entered into evidence.

The landlord testified that the tenant insulted a technician she hired to make requested repairs. The landlord entered into evidence text messages between the alleged technician and the tenant in which the alleged technician informs the tenant that the landlord asked them to contact the tenant to organize repairs. The tenant repeatedly asks the technician what company they work for, and the alleged technician evades the question and does not provide an answer. The tenant testified that the person who texted her was not known to her and she did not want to let a stranger into her home without knowing who they worked for.

The landlord testified that the tenant repeatedly contacted her about repairing the dryer. The landlord testified that she preplaced the dryer and had the ducts cleaned but the tenant was not still not satisfied and continued to harass her about the dryer.

The tenant testified that she repeatedly contacted the landlord about the dryer because it was not working, and it was eventually discovered that the reasons the new dryer also wasn't working properly was that the wiring was only 120 volt and not the required 240 volt for a dryer. This testimony was not disputed by the landlord.

The landlord testified that the tenant was disrespectful. The landlord entered into evidence as email dated January 26, 2022 in which the tenant tells the landlord that she is sick of her and that the landlord is getting herself into a legal mess. The tenant also goes on to allege that the landlord made her life difficult and calls her a "piece of shit".

The tenant testified that the landlord has been negligent in her duties and has failed to properly maintain the subject rental property and that this has had a negative impact on her.

The landlord testified that the tenant has not paid the correct amount for the water bill. The tenant did not provide testimony on this point.

The landlord testified that the tenant has asked her to repair damage to the fridge caused by the tenant or the tenant's guests. The tenant testified that she and her guests did not damage the fridge and asked the landlord to send in a technician, but she only sent in her family/friends who stated they were not technicians and didn't know how to fix it. The landlord entered into evidence an email from the tenant asking the landlord to fix the fridge.

The landlord testified that the tenant was aware that she was travelling out of the country with three young children and continuously harassed her about repairs during this time.

### Analysis

Based on the testimony of both parties, I find that the tenant was served with the Notice in accordance with section 89 of the *Act*.

Section 47(1)(d)(i) states that a landlord may end a tenancy by giving notice to end the 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.

I find that the landlord has not proved, on a balance of probabilities, that the tenant unreasonably disturbed her or significantly interfered with her. The tenant is entitled to complain to the landlord about issues arising out of their tenancy, including issues with the dryer, and the fridge. I find that the landlord has not proved that the tenant or a person permitted on the property by the tenant damaged the fridge. One of the landlord's duties, pursuant to section 32 of the *Act* is to provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I find that the landlord is not entitled to evict the tenant for seeking repairs to the subject rental property or for asking for a porch light to be left on.

I find that it was reasonable for the tenant to ask the stranger who texted her requesting access to the subject rental property, to allegedly complete repairs, what company he/she/they worked for. I find that this valid inquiry does not constitute harassment.

I find that asking to move items into the subject rental property early is not unusual and is not grounds for eviction. The landlord was under no obligation to say yes.

I find that the landlord has not proved, on a balance of probabilities, whose boxes were dumped on the driveway; in any event, the dumping of boxes is not grounds for eviction.

I find that calling the police on E. does not constitute a breach of section 47(1)(d)(i) of the *Act*. The public is entitled to call the police when they feel it is necessary. The details of cause section of the Notice states that video evidence of the alleged harassment can be provided. The video evidence was not submitted for consideration but its existence does lend credence to the tenant's testimony that E. was outside the subject rental property videoing her.

I find that even if the tenant did not correctly pay the water bill, on which point I make no findings, the incorrect payment of a water bill does not constitute significant interference or unreasonable disturbance and is therefore not a breach of section 47(1)(d)(i) of the *Act*.

I find that while the communications between the parties are not perfectly civil, such as the January 26, 2022 email, the exchange of words has not reached the point of causing significant interference or unreasonable disturbance.

I find that none of the individual issues presented by the landlord, nor the totality of the issues, constitutes significant interference or unreasonable disturbance and are therefore not a breach of section 47(1)(d)(i) of the *Act*. The parties are encouraged to work together to solve their future issues as this tenancy is continuing. The Notice is cancelled and of no force or effect.

As the tenant was successful in this application for dispute resolution, the tenant is entitled to recover the \$100.00 from the landlord, in accordance with section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a landlord to make a payment to the tenant, the amount may be deducted from any rent due to the landlord. I find that the tenant is entitled to deduct \$100.00, on one occasion, from rent due to the landlord.

### Conclusion

The Notice is cancelled and of no force or effect.

The tenant is entitled to deduct \$100.00 from rent due to the landlord.

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: May 18, 2022

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Residential Tenancy Branch