



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The tenant applied on February 28, 2022 for an order cancelling a One Month Notice to End Tenancy for Cause, dated February 22, 2022 (the One Month Notice).

The hearing was attended by the tenant's mother and the landlord's representatives (referred to as "the landlord"). Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord confirmed he received the tenant's Notice of Dispute Resolution Proceeding (NDRP) and evidence, and the tenant's mother confirmed the landlord's responsive evidence was received.

### Issues to be Decided

- 1) Is the tenant entitled to an order cancelling the One Month Notice?
- 2) If not, is the landlord entitled to an order of possession?

### Background and Evidence

The parties agreed on the following details of the tenancy. It began December 1, 2020; rent is \$1,268.00, due on the first of the month; and the tenant paid a security deposit of \$625.00, which the landlord still holds.

The landlord testified he served the One Month Notice on the tenant by registered mail and by email on February 22, 2022. The tenant's mother confirmed the Notice was received by email on February 22, 2022.

A copy of the One Month Notice is submitted as evidence. It is signed and dated by the landlord, gives the address of the rental unit, states the effective date, states the reason for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because:

- the tenant or a person permitted on the property by the tenant has:
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord; and
  - put the landlord's property at significant risk; and
- the tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property; and
- the tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit or property.

The Details of Causes section of the One Month Notice states that the tenant "used [a] tool to cause unusual damage to the rental property mailbox," and that the tenant "damaged another occupant vehicle parked in the assigned parking lot."

The landlord testified that on February 17, 2022 the tenant was caught on camera vandalizing another tenant's vehicle parked in the building's lot, and that he carved a curse word on the car of a female living in a neighbouring unit. The landlord submitted photos and video in support. One of the photos depicts the word "CUNT" scratched in large block letters into the painted hood of a vehicle.

The landlord testified that, also on February 17, 2022, the tenant was caught on camera vandalizing the tenant mailboxes inside the building. Photos and video are submitted in support, in which the tenant can be seen using a hammer to pry open a tenant mailbox. A photo of the damaged mailbox is submitted as evidence.

The landlord testified that he has received complaints from other tenants that the subject tenant "has been aggressive toward them," but provided no further details. The landlord submitted that the units in the building share common areas, such as the laundry room and parking, and questioned when the next time would be that the tenant would behave aggressively to another tenant. The landlord submitted it is not reasonable to ask them to accept the tenant's behaviour.

The tenant's mother submitted that she was very upset and disappointed, and that the tenant is devastated that he upset his neighbours. The tenant's mother submitted that overall, the tenant has had a good experience with everyone in the building.

The tenant's mother testified that the tenant has mental health issues, and experiences depression, psychosis, and chronic pain as a result of being hit by a car, and that in December 2021 he spent three weeks in the intensive care unit (ICU) in an induced coma, as he was suffering from double pneumonia. The tenant's mother testified that the tenant did not have COVID; he was vaccinated and tested.

The tenant's mother testified that the tenant was on many medications, and his life-threatening illness resulted in him having to make incremental changes to his regular medications. The tenant's mother testified that the tenant was not in his right mind at the time of the incidences, and is remorseful. The tenant's mother provided testimony about the effects of post-intensive care syndrome, and submitted a link to supporting information on the subject.

The tenant's mother submitted that the tenant's mental state was deeply affected by the impact of the illness and its treatment, and that the changes in his medications played a significant role in his behaviours, having a negative affect on his brain and decision making. She testified that the tenant is now stable and receiving care from multiple specialists. A letter from the tenant's physician is submitted in support.

The tenant's mother testified there was about a year before the tenant's pneumonia where things had been going well in the tenancy, and that the tenant had a good rapport with the previous landlord.

The tenant's mother stated the subject events were an isolated incident, and that the tenant would pay for repairs.

The tenant's mother testified that once the tenant was released from hospital, she learned there was mould in the ceiling of the tenant's unit. The tenant's mother testified that the former landlord was advised, and in early January 2022 the former landlord said he had cleaned up the mould and painted over the area. The tenant's mother submitted that the presence of mould in the tenant's unit may have increased the severity of his pneumonia.

### Analysis

Based on the parties' testimony, I find the landlord served the tenant the One Month Notice by email on February 22, 2022, and that the Notice was received the same day. I find the landlord sufficiently served the One Month Notice on the tenant on February 22, 2022, in accordance with section 71 of the Act.

I find the One Month Notice meets the form and content requirements of section 52 of the Act, as it is signed and dated by the landlord, gives the address of the rental unit, states the effective date, states the reason for ending the tenancy, and is in the approved form.

Section 47 of the Act states that a tenant receiving a One Month Notice may dispute it within 10 days after the date the tenant receives the Notice. As the tenant received the Notice on February 22, 2022 and applied to dispute it on February 28, 2022, I find the tenant met the 10-day deadline.

Section 47 of the Act includes that a landlord may give notice to end a tenancy if a tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, or if a tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.

The landlord has provided affirmed testimony and documentary evidence that the tenant vandalized another tenant's vehicle while it was parked in the building's parking area. The landlord has also provided affirmed testimony and documentary evidence that the tenant used a hammer to pry open the tenant mailbox inside the building, damaging it. The tenant's mother has not disputed the landlord's claims, and submits that the tenant is remorseful.

I find, on a balance of probabilities, that the tenant has seriously jeopardized the lawful right of another occupant, and that the tenant has engaged in illegal activity that has damaged the landlord's property.

Therefore, in accordance with section 47 of the Act, I find the landlord is entitled to an order of possession.

Conclusion

The tenant's application is dismissed; the One Month Notice is upheld.

The landlord is granted an order of possession which will be effective June 30, 2022, at 1:00 p.m.

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: June 14, 2022

---

Residential Tenancy Branch