



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      CNC, PSF, OLC

### Introduction

Both hearings dealt with the tenant's application, filed on October 14, 2022, pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlords' One Month Notice to End Tenancy for Cause, dated October 2, 2022 ("1 Month Notice"), pursuant to section 47;
- an order requiring the landlords to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 62; and
- an order requiring the landlords to provide services or facilities required by law, pursuant to section 65.

Landlord LW ("owner") did not attend both hearings. Landlord BW ("landlord") and the tenant attended both hearings. At both hearings, both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The first hearing on February 17, 2023, lasted approximately 62 minutes from 9:30 a.m. to 10:32 a.m. That hearing began at 9:30 a.m. The tenant left the hearing from 9:44 a.m. to 9:45 a.m., to call back in using his cellular phone. I informed the tenant that his original telephone was causing a loud buzzing sound, making it difficult for me to hear.

The landlords intended to call 4 witnesses, "witness PM," "witness LC," "witness JW," and "witness OS," who were excluded from the outset of the first hearing. Witness PM and witness LC called in at 9:30 a.m. and left the first hearing at 9:33 a.m. Witness JW and witness OS did not attend the first hearing. None of the landlords' 4 witnesses testified at the first hearing or heard testimony from either party.

The second hearing on March 2, 2023, lasted approximately 126 minutes from 9:30 a.m. to 11:36 a.m. The tenant stopped speaking and responding to me at 10:03 a.m. Witness OS testified from 10:10 a.m. to 10:27 a.m. Witness JW testified from 10:30 a.m. to 10:43 a.m. Witness PM testified from 10:49 a.m. to 11:17 a.m. Witness LC called in at 11:04 a.m., during the testimony of witness PM, and immediately left. Witness LC called back in and testified from 11:22 a.m. to 11:28 a.m. The second hearing ended at 11:36 a.m.

At both hearings, the landlord and the tenant confirmed their names and spelling. At both hearings, the landlord provided his email address, and the tenant provided his mailing address for me to send copies of both decisions to both parties after the both hearings.

At both hearings, the landlord said that his father, landlord LW, owns the rental unit. At both hearings, he confirmed that he had permission to represent landlord LW, as an agent (collectively "landlords"). At both hearings, he provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("*Rules*") does not permit recordings of any RTB hearings by any participants. At the outset of both hearings, all hearing participants separately affirmed, under oath, that they would not record both hearings.

At both hearings, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties. At the first hearing, I informed them that I could not provide legal advice to them. At both hearings, they had an opportunity to ask questions, which I answered. At both hearings, neither party made any accommodation requests. At the first hearing, neither party made any adjournment requests. At the second hearing, the landlord did not make any adjournment requests.

At the first hearing, both parties affirmed that they were ready to proceed with that hearing, they wanted me to make a decision, and they did not want to settle this application. At the first hearing, both parties were given multiple opportunities to settle and discussed settlement, but declined to settle.

At the second hearing, both parties were given an opportunity to settle this application but the tenant did not respond to the landlord's offer of settlement.

At both hearings, I repeatedly cautioned the tenant that if I dismissed his application without leave to reapply, I would uphold the landlord's 1 Month Notice, end this tenancy,

and issue a two (2) day order of possession against the tenant. At both hearings, the tenant repeatedly affirmed that he was prepared for the above consequences if that was my decision.

At both hearings, I repeatedly cautioned the landlord that if I cancelled the landlords' 1 Month Notice, I would not issue an order of possession against the tenant and this tenancy would continue. At both hearings, the landlord affirmed that the landlords were prepared for the above consequences if that was my decision.

#### Preliminary Issue - Adjournment of First Hearing

During the first hearing, I informed both parties that the first hearing on February 17, 2023, was adjourned for a continuation after 62 minutes because it did not finish within the 60-minute hearing time. By way of my interim decision, dated February 17, 2023, I adjourned the tenant's application to an expedited second hearing date of March 2, 2023. During the second hearing, both parties affirmed that the above information was correct.

At the first hearing, I notified both parties that the RTB would send them copies of my interim decision and notice of reconvened hearing with the second hearing date information. At the second hearing, both parties confirmed receipt of my interim decision and notice of reconvened hearing.

At the second hearing, I reviewed the following information, contained on page 5 of my interim decision, with both parties:

*This hearing did not conclude after 62 minutes and was adjourned for a continuation. I informed both parties that I am seized of this matter and the hearing will be reconvened as a conference call hearing. I notified both parties that a copy of the Notice of Reconvened hearing with the calling instructions would be included with this decision. Both parties affirmed their understanding of same.*

*I informed both parties that the reconvened hearing is only to hear remaining testimony from the landlords, as the landlord said that he had almost completed his submissions at this hearing, response testimony from the tenant, testimony from the landlords' 4 witnesses, and any reply submissions from the landlords. The tenant affirmed that he did not want to call any witnesses. Both parties affirmed their understanding of same.*

*I informed both parties of the following information during this hearing. Both parties are directed not to submit any further evidence, prior to the reconvened hearing. No witnesses are permitted to testify at the reconvened hearing, except for the landlords' 4 witnesses, as identified in this decision. Neither party is permitted to file any new applications after this hearing date of February 17, 2023, to be joined and heard together with the tenant's application, at the reconvened hearing. The tenant is not permitted to file any amendments to his application, after this hearing date of February 17, 2023, and prior to the reconvened hearing. Both parties affirmed their understanding of same.*

At the second hearing, both parties affirmed that the above information was correct.

#### Preliminary Issue – Tenant's Remaining Claims in Application

In my interim decision, I noted the following information at page 4, which was confirmed by both parties during the second hearing (my emphasis added):

*I informed both parties that the tenant was provided with a priority hearing date, due to the urgent nature of his claim to cancel the landlords' 1 Month Notice. I notified them that this was the central and most important, urgent issue that would be dealt with at this hearing. I informed them that I would only decide the landlords' 1 Month Notice, dated October 2, 2022. The tenant claimed in his application that he received 5 different notices to end tenancy from the landlords. The tenant agreed that he did not file an amendment to his application to dispute these other notices. Both parties affirmed their understanding of the above information.*

*I informed both parties that the remainder of the tenant's 2 claims, for an order requiring the landlords to comply with the Act, Regulation or tenancy agreement, and for an order requiring the landlords to provide services or facilities required by law, relate to an ongoing tenancy only. I notified them that, if I end this tenancy, the above claims will be dismissed without leave to reapply. I informed them that if I continue this tenancy, the tenant will have leave to reapply for the above remaining claims, since they will be severed. I notified them that the other ongoing tenancy claims were non-urgent lower priority issues, and they could be severed at a hearing. I informed them that this was in accordance with Rules 2.3 and 6.2 of the RTB Rules above. Both parties affirmed their understanding of the above information.*

At the second hearing, both parties affirmed that the above information was correct.

Preliminary Issue – Tenant's Adjournment Request at Second Hearing

At the second hearing, the tenant requested an adjournment. He said that he had a "prior commitment." He claimed that he called the RTB as soon as he found out about the second hearing date of May 2, 2023, to advise that he was not available. I informed the tenant that the second hearing date was not scheduled for May 2, 2023. I notified the tenant that, pursuant to my directions and instructions to the information officers at the RTB, I asked for the tenant and the landlord to be called by telephone, to advise them of the second hearing date and calling instructions, due to the expedited date.

As per the online RTB dispute access site, the communication notes, which I read aloud during the second hearing, state that the tenant was called twice on February 21, 2023, at 1:30 p.m. and 2:48 p.m., to advise him of the second hearing date and time and a notice of hearing and interim decision were sent to the tenant on the same date of February 21, 2023.

The tenant stated that he was unsure whether the RTB called him, but he would agree that the RTB probably did, but he is absolutely sure that he called the RTB himself to notify them of his conflict. He claimed that he had an "adjudication meeting on the docket for over a month," which was an appointment at City Hall, in the council chambers meeting room, regarding a ticket on a boat trailer sitting on a public street. He stated that he wanted to appeal the decision of the bylaw officer regarding this ticket. He said that the meeting started at 10:30 a.m. or 11:00 a.m. or "it might be a little later" on the date of the second hearing. I informed the tenant that the second hearing start time was 9:30 a.m., which is prior to his City Hall appointment at 10:30 a.m. or 11:00 a.m. The tenant claimed that he needed time to prepare for his City Hall meeting, so he could not attend the second hearing.

I informed the tenant that he did not provide documentary evidence to confirm the above City Hall appointment. The tenant claimed that he had documentary evidence to prove the appointment, but he did not submit it because he was not asked to do so. I notified him that he did not inform me about this appointment or unavailability at the first hearing on February 17, 2023. At the first hearing, I informed both parties that I would attempt to obtain an expedited date for the second hearing. The tenant said that he did not know that this hearing was going to occur on March 2, 2023. He claimed that his housing and tenancy was more important than the City Hall issue, but he said that the

City Hall meeting could not be changed at the “last minute.” The tenant did not provide documentary evidence to confirm when the City Hall appointment was scheduled or that it could not be changed. The tenant had notice on February 21, 2023 of the second hearing, by way of the RTB call made to him, so it was not “last minute.” The tenant claimed that no one else could attend as his agent at the second hearing or the City Hall appointment because he knew the information best, so he wanted to represent himself.

At the second hearing, the landlord opposed the tenant’s adjournment request. He said that he does not agree to delaying this hearing any further. He claimed that he was working on the date of the second hearing, but he asked for half a day off work, in order to attend the second hearing. He stated that he reviewed the tenant’s evidence and it was irrelevant to the tenant’s application. He explained that the landlords’ 4 witnesses were waiting to testify at the second hearing, and he arranged for them to be there, ahead of time. He said that he wanted to get this issue resolved.

I informed both parties that I would not grant the tenant’s adjournment request. I made this decision after taking into consideration the criteria established in Rule 7.9 of the RTB *Rules*, which includes the following provisions:

*Without restricting the authority of the arbitrator to consider the other factors, the arbitrator will consider the following when allowing or disallowing a party’s request for an adjournment:*

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*
- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment; and*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

I find that a second adjournment would not likely result in an efficient or expeditious resolution of the tenant’s application. Both parties were offered multiple opportunities during both hearings to settle and declined to do so.

The landlords did not consent to the tenant’s request for an adjournment. I find that this is an urgent, priority issue, regarding a 1 Month Notice and an order of possession. I find that the landlords issued the 1 Month Notice to the tenant on October 2, 2022, effective on November 1, 2022, the tenant applied to dispute it on October 14, 2022,

and the landlords had to wait for the first hearing date of February 17, 2023, which is outside of both parties' control, due to the RTB wait times for scheduling a hearing. I find that the landlords had to wait again when the first hearing did not complete on February 17, 2023, and was adjourned to March 2, 2023, which is outside of both parties' control, due to the RTB wait times for scheduling a hearing. I find that the landlords would be prejudiced by a second adjournment of this application, and waiting for a third hearing date, which is outside of both parties' control, due to the RTB wait times for scheduling a hearing. I find that a further delay in this proceeding would greatly prejudice the landlords who are seeking an urgent end to this tenancy and an order of possession, as confirmed by the landlord.

I find that the need for an adjournment arises out of the intentional actions or neglect of the tenant. The tenant did not provide documentary proof of his City Hall appointment, that it was "on the docket for over a month," or that he could not ask to change the date or time. The tenant was called by the RTB twice on February 21, 2023, and was informed of the second hearing date and time, prior to the second hearing on March 2, 2023. I informed both parties at the first hearing, that the second hearing could occur at any time, I did not know the available dates for same, and I could not guarantee any dates. The tenant did not inform me at the first hearing that he was unavailable or unable to attend a second hearing on March 2, 2023, due to an appointment at City Hall. The tenant could have had an agent attend on his behalf at the City Hall appointment or at the second RTB hearing, but chose not to do so.

I informed the tenant that this information was contained in the Notice of Dispute Resolution Proceeding ("NODRP"), dated November 17, 2022, which was provided to the tenant when he first filed his application. The NODRP states that a party may have an agent attend the hearing on their behalf, and that a hearing will proceed, and a final decision will be made, even if a party does not attend the hearing. This is noted below in the analysis section of this decision. The tenant did not even know the exact start time for his City Hall appointment, claiming that it was at 10:30 a.m. or 11:00 a.m. Those times are both after the second hearing start time of 9:30 a.m. The tenant had over a month to prepare for his City Hall appointment, since he claimed it was "on the docket for over a month." I find that the tenant chose not to make alternate arrangements or prepare for the City Hall appointment ahead of time.

When I verbally provided my decision to both parties, to deny the tenant's adjournment request, during the second hearing, the tenant became upset, argued with me, interrupted me, spoke at the same time as me, and laughed while I was talking. The tenant said that he can submit a review of my decision. I repeatedly cautioned the

tenant about the above inappropriate behaviour and asked him to allow me to speak without interruption, but the tenant refused. I notified him that I had made my decision and the second hearing would go ahead. I informed him that I muted his telephone line once at 10:01 a.m. because he refused to allow me to speak without interruption. I cautioned the tenant that if he left the second hearing and did not attend, it could negatively impact his tenancy and my final decision because the landlords' evidence would be undisputed by the tenant, and the tenant could be evicted in 2 days, pursuant to an order of possession, if I upheld the landlords' 1 Month Notice. The tenant affirmed his understanding of same.

When I asked the tenant whether he would remain in or leave the second hearing, the tenant did not answer me. When I asked the tenant whether he wanted to settle his application with the landlord, the tenant did not respond. I repeatedly called out for the tenant by his name, asked him to respond to me, asked if he was remaining in the second hearing, asked if he wanted to settle, and he did not respond. I provided additional time during the second hearing, for the tenant to respond or call back into the hearing, without discussing evidence with the landlord. The tenant stopped responding to me at approximately 10:03 a.m. The tenant did not respond for the remainder of the second hearing which ended at 11:36 a.m. I again called out for the tenant by his name and asked him to respond at the end of the second hearing, but he did not respond.

Upon review of the online RTB dispute access site communication notes, the tenant called the RTB information line at 11:01 a.m. on March 2, 2023, while the second hearing was still ongoing, since it ended at 11:36 a.m. The notes indicate that the tenant was explained the complaint and review procedure and he requested a copy of the recording from the hearing. The notes do not state that the tenant was unable to hear, speak, participate, or that he was disconnected from the second hearing. Further, the tenant claimed that he had a City Hall appointment at 10:30 a.m. or 11:00 a.m. on the date of the second hearing but was somehow able to call into the RTB at 11:01 a.m., the same time as his City Hall appointment. The tenant did not respond to me after 10:03 a.m., but he was able to call the RTB information line, rather than participate in the second hearing. I repeatedly checked the hearing line to see if the tenant was present, as I could hear noise from the tenant's telephone line, but the tenant did not answer me or any of my questions.

I continued with and completed the second hearing, even in the partial absence of the tenant, as per my authority to do so, pursuant to the following RTB *Rules*:

### *7.3 Consequences of not attending the hearing*



*If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

#### *7.10 Mandatory attendance*

*If the dispute resolution hearing is adjourned, the arbitrator will order the parties to attend on the date when the dispute resolution hearing will be reconvened.*

*If a party does not attend the reconvened hearing at the scheduled time, the arbitrator may commence, continue, and conclude the hearing. Pursuant to Rule 7.3, the arbitrator may issue a decision and order in the absence of a party.*

#### *7.11 Refusing a request for adjournment*

*If the arbitrator determines that an adjournment should not be granted, the dispute resolution hearing will proceed as scheduled.*

*When a request for adjournment is refused, reasons for refusing the request will be provided in the written decision.*

### Preliminary Issue – Inappropriate Behaviour by the Tenant during both Hearings

Rule 6.10 of the RTB Rules states the following:

*6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing*  
*Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.*

During both hearings, the tenant interrupted me, spoke at the same time as me, and argued with me. I cautioned the tenant, but he continued with his inappropriate behaviour at both hearings.

At the first hearing, when I informed the tenant that he applied late to dispute the landlords' 1 Month Notice, the tenant became upset, argued with me, interrupted me, and spoke at the same time as me. I was required to repeat myself numerous times to the tenant, but he continued asking the same questions and arguing with me.

When I provided my decision to deny the tenant's adjournment request at the second hearing, the tenant became upset, argued with me, interrupted me, spoke at the same time as me, and refused to respond and answer my questions for the remainder of the second hearing. I was required to repeatedly explain my decision numerous times to the tenant, but he continued arguing with me.

#### Preliminary Issue – Service of Documents

I noted the following in my interim decision. At the first hearing, the landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlords' evidence. In accordance with sections 88 and 89 of the *Act*, I found that both landlords were duly served with the tenant's application and the tenant was duly served with the landlords' evidence.

I noted the following in my interim decision. Pursuant to section 64(3)(c) of the *Act*, I amended the tenant's application to separate the two landlords' names, add the surname of the owner, and include the legal middle names of the landlord. The landlord consented to these amendments during the first hearing. The tenant did not object to same, during the first hearing. I find no prejudice to either party in making these amendments.

Pursuant to section 64(3)(c) of the *Act*, I amend the tenant's application to include the rental unit room number. The landlord consented to this amendment during the first hearing. The tenant did not object to same, during the first hearing. I find no prejudice to either party in making these amendments.

I noted the following at the first hearing and in my interim decision. The landlord stated that he served the landlords' 1 Month Notice to the tenant on October 2, 2022, by way of posting to the tenant's rental unit door. The tenant confirmed receipt on October 2, 2022, and then changed his testimony to state it was October 3, 2022, by way of posting to his rental unit door. The tenant said that he wrote down the date of October 3, 2022, as the date he received it, and the date of October 15, 2022, as the date to dispute it, on the 1 Month Notice, that he provided as evidence for this hearing. In his application, the tenant stated that he received the 1 Month Notice on October 3, 2022. In accordance with section 88 of the *Act*, I found that the tenant was duly served with the landlord's 1 Month Notice on October 3, 2022.

I noted the following at the first hearing and in my interim decision. According to subsection 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an

application for dispute resolution within 10 days after the date the tenant received the notice. The tenant received the 1 Month Notice on October 3, 2022, and filed this application to dispute it on October 14, 2022. Therefore, the tenant was not within the 10-day time limit to dispute the 1 Month Notice. The tenant confirmed that he did not apply for more time to cancel the 1 Month Notice. I again cautioned the tenant at the first hearing, that if I upheld the landlords' 1 Month Notice, I would issue a 2 day order of possession against him. The tenant affirmed his understanding of same at the first hearing, but repeatedly argued that he applied in time.

### Issues to be Decided

Should the landlords' 1 Month Notice be cancelled? If not, are the landlords entitled to an order of possession for cause?

### Background and Evidence

While I have turned my mind to the documentary and digital evidence and the testimony of both parties and the landlords' 4 witnesses at both hearings, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

Both parties agreed to the following facts at the first hearing. This tenancy began on May 15, 2020. Monthly rent in the current amount of \$710.50 is payable on the first day of each month. The tenant paid a security deposit of \$350.00, and the landlord continues to retain this deposit in full. Both parties signed a written tenancy agreement. The rental unit is a room on the upper level of a house ("residential property). The tenant is not permitted to occupy the rental unit, due to an undertaking from the Court, pursuant to criminal charges against the tenant, that have yet to be decided by the Court.

At both hearings, the landlord stated that the landlords seek an order of possession based on the 1 Month Notice. At the first hearing, the tenant confirmed that he disputes the landlord's 1 Month Notice.

At the first hearing, both parties agreed that the landlords' 1 Month Notice indicates an effective move-out date of November 1, 2022, and was issued for the following reasons:

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

- *significantly interfered with or unreasonably disturbed 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;*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

At the first hearing, the landlord testified regarding the following facts. For 1.5 years, the tenant has been engaging in breaches. He has been harassing his roommates, as per the verbal recordings. He has been running a repair business in the driveway. He has asked the other occupants at the residential property to go back to their home country and get off the property. The other occupants have asked the tenant to leave them alone, but the tenant has physically harassed them. The tenant has blocked their access and says that he has the freedom to do what he wants and go where he pleases. Sometimes, the tenant will not touch these other occupants but will follow them and block their access. The tenant is a big and tall man, as he is 6 feet and 1 inch and covers his roommates. The landlord spent three to five hours alone with the tenant to deal with these issues and the tenant told him that his roommates were being aggressive. One of the roommates was working at the food bank. The tenant has disputes with police. The bylaw officers and police know the tenant. The landlord told the tenant that he cannot harass his roommates or run a business at the residential property. The tenant fixes, repairs, and sells for his business.

At the first hearing, the landlord stated the following facts. Witness OS is the tenant's roommate and drove the tenant to buy second-hand used items because the tenant asked for his help. The tenant is hoarding and there is a pile in the garage. The tenant is building trailers, as there are 10 to 12 trailers. There were 12 instances in the past 1.5 years regarding the tenant, and there was nothing before that. Witness PM's sister, "occupant AM," is a roommate of the tenant, and was physically abused by the tenant. Last Friday, prior to the first hearing, the tenant assaulted occupant AM. The police were called, and occupant AM faced physical damages. The police called the landlord and said that the tenant was served with an undertaking to leave the property within 72 hours. The tenant denied this and refused to leave the property. The police gave the tenant until 12:00 a.m. and then the tenant moved out. Witness JW and witness OS were friends with the tenant before. The tenant was going in witness OS's room and blocking him. The police were called 7 to 8 times by the tenant and maybe 1 time by witness OS. The tenant was causing trouble and taunting. The police said that both

tenants should get out. This is recorded in videos and voice messages. The tenant trespassed into occupant AM's room and took a picture of her room.

At the second hearing, the landlord's witness OS testified regarding the following facts, in response to the landlord's questions. Witness OS was living with the tenant at the residential property. He rents one of the rooms from the landlords. His life has been miserable since he moved in. The tenant calls him names and bullies him. The tenant runs a workshop in the garage. The tenant threatened to beat witness OS up, if he reported the tenant to the landlord. The tenant does not allow witness OS to park his car in the garage, so he has to leave his car outside. The tenant's machines are noisy, it is "unbelievable," and the machines cut wood all over the place. The tenant has a shop there, where he is making a wood box and steel bars around trailers. The tenant has harassed, threatened, and caused noise as late as 12:00 a.m. Witness OS has to wake up at 6:00 a.m., and the tenant threatened him that he would break both of his legs if he called the landlord, and told him that he would not be able to walk anymore, and he has blocked witness OS's house access. The police have been involved many times and witness OS has called the police twice because he is scared of the tenant. He told the tenant to stay away from him but the tenant will not leave him alone. The tenant called the police on witness OS, and told them that witness OS pulled a knife on the tenant. The tenant makes up stories about witness OS. The police told witness OS that the tenant called to report violence. The tenant continues to harass witness OS, and nothing has been done by the police, regarding these threats. Witness OS was told that it would go to Court if the tenant stayed.

At the second hearing, the landlord's witness JW testified regarding the following facts, in response to the landlord's questions. Witness JW moved into a room at the residential property on August 7, 2022. On October 16, 2022, at 11:00 p.m., the tenant was cutting wood the whole night and causing loud noises. The tenant did not flush the toilet clearly, so witness JW confronted the tenant, and the tenant angrily held a knife, in his right hand, over witness JW's head. The tenant cornered and blocked witness JW, in the corner. If the tenant stabbed witness JW, then witness JW would have nowhere to go, and he was in fear of his life because he felt threatened. The tenant appears by witness JW's side and is like his shadow, following and blocking his way with his body. The tenant told witness JW to "go back to China," so witness JW was hurt deeply. Witness JW has had nightmares many times. Witness JW is a 50-year-old man and has been crying, due to the tenant's harassment and abuse. Witness JW could not take it anymore and he was forced to leave the residential property on December 3, 2022. He does not want the tenant to hurt other people. Witness JW's lease was supposed to

end on August 7, 2023, after one year of moving in, but he left early before the end of the lease.

At the second hearing, the landlord's witness PM testified regarding the following facts, in response to the landlord's questions. When witness PM met him, the tenant talked a lot, and witness PM thought it was weird. The tenant called witness OS an alcoholic. The tenant said that witness OS was being evicted, so witness PM thought that the tenant was trying to get witness PM on his side. Witness PM's sister, occupant AM, lives in a room at the residential property with the tenant. Initially, occupant AM said that she liked the tenant. But then the tenant started following her around the house, raising his voice, getting mad at occupant AM for eating food, yelling at her, and causing confrontations, so occupant AM would leave and go to her room. The tenant would follow occupant AM and get in her space, since he tenant is bigger than her. The tenant would wait for occupant AM to come out of her room and then bothered her in the shared spaces of the residential property. Witness PM told the landlord that the tenant entered occupant AM's room without permission. One day, witness PM picked up occupant AM and the tenant was in her room and took a photo in her space, which proved their suspicions were correct. Witness PM wrote a letter to the landlord at the beginning of January.

At the second hearing, the landlord's witness PM stated the following facts, in response to the landlord's questions. One day, occupant AM woke up to her doorknob rattling from the tenant. She called witness PM on video chat, told him that the tenant was in the kitchen with her, antagonizing her, smiling at her, and came close to her. She told him that the tenant punched her and threw water in her face and punched her again. She ran to her room and locked the door to keep safe. Witness PM called the police, and they told him that they had already received a call from the tenant, regarding the incident. Witness PM reported to the police that occupant AM was punched by the tenant. He told the police that he was going to pick up occupant AM but he needed police presence, just to be safe. Constable K attended at the residential property with witness PM, during this time. When witness PM went to pick up occupant AM, the tenant smiled at him. Witness PM asked the tenant how he could smile after hitting witness PM's 22-year-old sister, when the tenant is a 64-year-old man. Constable K told witness PM that occupant AM's face was pale, so he could not get testimony from her at that time. Constable K pointed out the two bruises on occupant AM's face. Constable K told witness PM that this was grounds for an arrest and asked if witness PM wanted to press criminal charges and witness PM said yes. Witness PM got occupant AM and her belongings out of the residential property. The tenant came close to witness PM during this time, so constable K had to stand in the tenant's way to block

him. The tenant was arrested due to this incident and was given 2 hours to leave the residential property. Eight days later, when occupant AM went to see her doctor, he diagnosed her with a concussion at that time.

At the second hearing, the landlord's witness LC testified regarding the following facts, in response to the landlord's questions. He lived in a room at the residential property. The tenant was yelling since day 1. The tenant removed the locks on the doors and the common areas in the garage but he had no permission to do so. There was violence from the tenant at the residential property. The tenant punched occupant AM, due to splashing water. He got occupant AM out of the residential property and she went with her brother, witness PM. Occupant AM had bruising on her face. Witness LC got occupant AM a room at the hotel where he works. The police told occupant AM to stay away from the residential property. The police told the tenant to collect his belongings in 72 hours. The tenant has had conflict with witness OS, who is from Brazil, and there has been violence and the police have been called a few times regarding threats. There have been threats from the tenant to other occupants at the residential property, to go back to their countries, in China and Brazil, and this is not comfortable.

At the second hearing, the landlord testified regarding the following facts. The tenant appears as a well-presented person but when things do not go his way, he turns and changes. For the first 4 months of his tenancy, the tenant was fine, and the landlord thought there were misunderstandings. For the following 1.5 years, the landlord provided notices to the tenant. The landlord has never evicted anyone before. The other occupants and witnesses all have different lease agreements with the landlords. They all live with the tenant, so this is a safety issue. The residential property is well known to the police and bylaw officers because of the tenant. The landlord would keep the tenant at the rental unit if he was good, but he cannot. The landlord has provided evidence, photos, and videos from other occupants and neighbors.

At the second hearing, the landlord stated the following facts. The police and the tenant have a copy of the order for the tenant not to attend at the residential property. The landlord does not have a copy. Witness PM and witness LC both mentioned the incident involving this order. The tenant denied receiving this order and threw it out along with a copy of the landlord's 1 Month Notice that the landlord gave the tenant. The tenant always throws out his documents. Constable K told the tenant not to enter the rental unit unless there is a favourable Court ruling in his favor. This was due to the punches and physical assault from the tenant on occupant AM. There is a court hearing date to decide the issue, as to whether the tenant can go back to the rental unit. The tenant is not allowed to go to the residential property without a police escort at this time.

At the first hearing, the tenant said that his Court date was on March 6, 2023. At the first hearing, the tenant said that he was trying to get an earlier expedited Court date on February 27, 2023, but the landlord does not believe this happened. The tenant was arrested the next day and when he was at the police station, he recorded a video of the police officers. The tenant has multiple by law issues.

## Analysis

### Burden of Proof and Rules

During the first hearing, I notified both parties that the landlord had the burden to prove the reasons for issuing the 1 Month Notice to the tenant. The *Act*, *RTB Rules*, and Residential Tenancy Policy Guidelines require the landlord to provide evidence of the reasons on the notice.

The tenant, as the applicant, was provided with two NODRP documents from the RTB, which contains the phone number and access code to call into both hearings, when he first filed his application and after the first hearing was adjourned to the second hearing. The first NODRP is dated November 17, 2022, and the second NODRP is dated February 21, 2023.

The first NODRP, dated November 17, 2022, states the following at the top of page 2, in part (my emphasis added):

**The applicant is required to give the Residential Tenancy Branch proof that this notice and copies of all supporting documents were served to the respondent.**

- **It is important to have evidence to support your position with regards to the claim(s) listed on this application. For more information see the Residential Tenancy Branch website on submitting evidence at [www.gov.bc.ca/landlordtenant/submit](http://www.gov.bc.ca/landlordtenant/submit).**
- Residential Tenancy Branch Rules of Procedure apply to the dispute resolution proceeding. View the Rules of Procedure at [www.gov.bc.ca/landlordtenant/rules](http://www.gov.bc.ca/landlordtenant/rules).
- **Parties (or agents) must participate in the hearing at the date and time assigned.**
- **The hearing will continue even if one participant or a representative does not attend.**



- **A final and binding decision will be sent to each party no later than 30 days after the hearing has concluded.**

The NODRP states that a legal, binding decision will be made and links to the RTB website and the *Rules* are provided in the same document. During both hearings, I informed both parties that I had 30 days to issue a written decision, after the final hearing date.

The tenant received a detailed application package from the RTB, including the NODRP documents, with information about the hearing process, notice to provide evidence, and links to the RTB website. It is up to the tenant to be aware of the *Act, Regulation, RTB Rules*, and Residential Tenancy Policy Guidelines. It is up to the tenant to provide sufficient evidence of his claims, since he chose to file this application on his own accord.

The following RTB *Rules* are applicable and state the following, in part:

*7.4 Evidence must be presented*

*Evidence must be presented by the party who submitted it, or by the party's agent.*

*If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.*

...

*7.17 Presentation of evidence*

*Each party will be given an opportunity to present evidence related to the claim. The arbitrator has the authority to determine the relevance, necessity and appropriateness of evidence...*

*7.18 Order of presentation*

*The applicant will present their case and evidence first unless the arbitrator decides otherwise, or when the respondent bears the onus of proof...*

I find that the tenant did not sufficiently present his submissions, claims or evidence, as required by Rule 7.4 of the RTB *Rules*, despite having multiple opportunities to do so, during two hearings, as per Rules 7.17 and 7.18 of the RTB *Rules*.

Both hearings lasted 188 minutes total, which is 3 hours and 8 minutes. Therefore, the tenant had ample time to present his submissions and evidence and respond to the

landlords' evidence. The tenant chose not to participate in a portion of the second hearing or to respond to the landlords' evidence, despite being given multiple opportunities to do so. The tenant did not reference or explain his documentary or digital evidence submitted with his application.

### Findings

On a balance of probabilities and for the reasons stated below, I make the following findings based on the testimony and evidence of both parties. Both parties provided hundreds of digital and documentary files, uploaded to the online RTB dispute access site, as evidence for this application.

In accordance with section 47(4) of the *Act*, the tenant must file his application for dispute resolution within 10 days of receiving the 1 Month Notice. In this case, the tenant received the 1 Month Notice on October 3, 2022, and filed his application to dispute it on October 14, 2022.

At the first hearing, the tenant agreed that he wrote the following information on page 1 of the 1 Month Notice, which he submitted with his application:

*"Found on Door  
Oct 3 / 4:00 pm  
Dispute on Oct 15/2022"*

Accordingly, I find that the tenant's application was not filed within the 10-day time limit under the *Act*. I find that the tenant did not apply for more time to dispute the notice. I informed both parties of the above information during the first hearing.

At both hearings, the tenant did not indicate what exceptional circumstances prevented him from filing his application in a timely manner.

The tenant indicated the following description when he filed his application to dispute the 1 Month Notice:

*"The Landlord is now very obstinant and difficult to talk to. I have tried several times to appeal to his common sense, rational, practical reasonableness, or logic to no avail. He refuses to address his ideas for the landlord has been dramatically influenced + brainwashed by a jealous jilted alcoholic tenant in the house who calls the landlord repeatedly and frequently filling the landlord's head*

*with false, misleading, inaccurate, and malicious propaganda. Landlord has sadly drunk the kool-aid.” [sic]*

I am satisfied that the landlords issued the 1 Month Notice for a valid reason. I find that the landlords provided sufficient and undisputed testimonial and documentary evidence that the tenant significantly interfered with and unreasonably disturbed other occupants and the landlords at the residential property.

I accept the affirmed, undisputed testimony of the landlord and the landlords’ 4 witnesses. I accepted the landlords’ undisputed documentary and digital evidence submitted in response to the tenant’s application.

I find that the landlords provided sufficient and undisputed documentary and digital evidence in the form of notices, letters, emails, text messages, photographs, audio and video recordings. I find that the landlords repeatedly cautioned the tenant with notices about his behaviour, prior to issuing the 1 Month Notice to him.

I find that the tenant engaged in a pattern of loud noise, disturbances, yelling, screaming, bullying, harassing, threatening, and engaging in physical and verbal altercations with other occupants at the residential property. I accept the undisputed and affirmed testimony of the landlords’ 4 witnesses regarding the above incidents, that they experienced living with or encountering the tenant at the residential property. I find that the tenant threatened witness JW with a knife. I find that the tenant punched witness AM, was arrested and charged with assault for this incident, and was prohibited, by way of a legal Court undertaking, from attending at the residential property without a police escort, or from occupying the rental unit at the residential property. I find that the tenant engaged in dangerous, violent, and threatening behaviour against other occupants at the residential property.

The tenant provided a copy of a letter, dated October 19, 2022, regarding files held with the police involving the tenant and the residential property, where the tenant is the complainant for a number of criminal offences, and the tenant is the subject of a “bylaw-other” on January 29, 2022, “cause a disturbance” on September 10, 2021, and “obstruct peace/public officer” [sic] on August 2, 2020.

The tenant testified at the first hearing that he dealt with the police, and he had a restraining order against him, so he could not occupy the rental unit, as of the date of the first hearing on February 17, 2023. The tenant claimed at the first hearing, that he appealed the issue, and the matter has not been decided.

I do not have jurisdiction or authority to decide criminal offences under the Criminal Code of Canada, including to override, alter, or change any legal undertaking issued by the Provincial, Supreme, or Appeal Courts of British Columbia.

I find that the tenant's behaviour is a pattern that arose before and continued after the 1 Month Notice was issued by the landlords to the tenant. I find that these incidents have been ongoing from the years 2020 to 2023. I find that these incidents are as recent as February 10, 2023, which is days before the first hearing on February 17, 2023.

The landlords provided audio recordings from occupant AM, in January 2023, when the tenant trespassed into her room, and the tenant can be heard arguing and yelling at her, while occupant AM is repeatedly telling the tenant to leave. The landlords provided a letter from witness PM, who testified that he sent a letter to the landlord, regarding the tenant's conduct against his sister, occupant AM. The landlords provided text messages, dated January 3, 2023, from the tenant to the landlord, regarding the tenant entering occupant AM's room without permission [sic]:

*"You have been both warned and notified .RTB to also be informed of your careless negligence .I'm done for a other day dealing with your stupidity .OUT!*

*[1 photo of occupant AM's room included]*

*Taken 15 minutes ago! This is what your entire house would look like if I didn't constantly clean up after that unstable female slob you rented too!*

*RTB is gonna love this!"*

The landlords provided photographs of the bruises on occupant's AM's face, from the tenant punching her on February 10, 2023. The landlords provided hotel receipts from February 10 to 12, 2023, for occupant AM staying at a hotel, to avoid the tenant and the residential property, as per police direction. The landlords provided text messages of conversations between the landlord and constable K, regarding the tenant being prohibited from attending at the residential property. The landlords provided the phone number for constable K in the text messages. The text messages from Constable K to the landlord on February 10, 2023 (first two messages below) and February 11, 2023 (third message below), state the following (occupant AM's first name redacted due to confidentiality):

*“Yes he twisted it he refused to listen and it was explained to him. [Occupant AM] is off the property to allow him to gather his things and leave, due to living conditions. [Occupant AM] is not booted from property just a safety plan.*

*He has 72 hours then he is breach of the undertaking. Don’t engage with him he will just twist it.”*

...

*“Just an update he was arrested the following day on separate issue. Yes 5pm just call it in”*

I find that the tenant did not provide sufficient documentary or testimonial evidence to dispute the landlords’ 1 Month Notice and evidence. The tenant did not dispute the authenticity or contents of the landlords’ evidence. The tenant did not cross-examine the landlords’ 4 witnesses or dispute their testimony. The tenant did not cross-examine or dispute the landlord’s affirmed testimony.

The tenant had ample time from October 14, 2022, when he first filed this application, to February 17, 2023, a period of over 4 months, to gather witnesses and sufficient evidence to support his application, but failed to do so.

I find that the tenants’ documentary and digital evidence, which the tenant uploaded and labelled to the online RTB dispute access site, and the tenant’s testimony at the first hearing, confirms that the tenant was involved in numerous verbal and physical altercations, threatening and harassing behaviour with other occupants at the residential property. I find that the above evidence confirms that the tenant significantly interfered with and unreasonably disturbed other occupants and the landlords at the residential property.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reasons.

I find that the landlords have not waived their right to enforce the 1 Month Notice. Neither party indicated whether the tenant paid full rent to the landlords after the corrected effective date of the 1 Month Notice, of November 30, 2022. However, the landlords did not withdraw their 1 Month Notice and they continued to pursue an eviction of the tenant at both hearings on February 17, 2023 and March 2, 2023.

In accordance with section 47(5) of the *Act*, this tenancy ended on November 30, 2022, the corrected effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by November 30, 2022. As this has not occurred, I find that the landlords are entitled to a two (2) day order of possession against the tenant, pursuant to section 55 of the *Act*. The corrected effective date of November 30, 2022, on the notice, has long passed, as the date of the second hearing was March 2, 2023. I find that the landlords' 1 Month Notice complies with section 52 of the *Act*.

At both hearings, I notified the tenant that I would be issuing a 2-day order of possession against him, if he was unsuccessful in this application. The tenant affirmed his understanding of same at both hearings and confirmed that he was prepared for the above consequences, as noted in my interim decision and this final decision.

Since I have ended this tenancy, I am not required to make a decision regarding the remainder of the tenant's application, for an order requiring the landlords to comply with the *Act*, *Regulation* or tenancy agreement, and for an order requiring the landlords to provide services or facilities required by law. As noted in my interim decision (and above), these claims relate to an ongoing tenancy only. These claims are dismissed without leave to reapply.

### Conclusion

The tenant's entire application is dismissed without leave to reapply.

I grant an Order of Possession to the landlords effective two (2) days after service on the tenant. 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: March 06, 2023

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Residential Tenancy Branch