



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

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## DECISION

Dispute Code: CNC

### Introduction

The Tenant seeks to cancel a notice to end the tenancy under the *Residential Tenancy Act* (the “Act”).

### Issue

Should the notice to end the tenancy be cancelled?

### Background and Evidence

The tenancy began on June 22, 2022. Rent is \$1,000 and the Tenant paid a \$500 security deposit. There is a written tenancy agreement on this tenancy.

On November 8, 2022 the Landlord served a One Month Notice to End Tenancy for Cause (“Notice”) on the Tenant by posting it on the door. The Notice was issued because the Tenant “significantly interfered with or unreasonably disturbed another occupant or the Landlord” and because they breached “a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.”

The Landlord’s agent (hereafter the “Landlord”) testified under oath that they issued the Notice because the Tenant has, since they moved into the apartment building, upset all of the other occupant tenants around them. The Tenant has interfered and disturbed others and that it has been constant and “nonstop.”

Other occupants of the building, (a 3-storey, 62-rental unit apartment building) have reported the Tenant to be screaming, yelling, and slamming things. The police, BCEHS, fire, and TechBC have attended on many occasions for various reasons.

The Landlord testified that the situation is unreal and that because of all the complaints and disturbances the Landlord decided to issue the Notice. They testified that things quieted down after the Landlord served the Notice. However, things started up again around New Year’s and that the situation was “up and down, up and down.”

The problems are not going to stop, the Landlord stressed. And the Landlord suggested that perhaps the Tenant should find another place more suitable.

As an aside, the Landlord did not provide a clear explanation or argument as to what material term of the tenancy agreement was breached.

The Tenant briefly explained that they are a person of multiple barriers, and that they need an electric wheelchair to move about. The Tenant also testified about their medical history and about various issues and problems with the Landlord, the apartment building, the rental unit, and with other tenants.

The Tenant denied any of the allegations made against them in the Notice, and added that noise complaints were incorrectly made against them. The building is full of “crooked people,” with the occupant residing above the Tenant to be of a particularly troublesome type.

In reference to emergency services being summoned, the Tenant explained that they had an injury and needed the ambulance. And on another occasion, the wheelchair went into charge mode, essentially confining the Tenant to the chair. They needed 911 services’ assistance on that occasion.

### Analysis

When a tenant disputes a notice to end a tenancy, the onus to prove the reason for issuing that notice falls upon the landlord. The standard of proof is on a “balance of probabilities” which means that it is more likely than not that the facts occurred as claimed, and which thus form the basis on which a notice was given.

In this dispute, the Notice was issued under subsection 47(1)(d)(i) on the basis that the Tenant “significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.”

While the Landlord testified that other occupants have made many complaints about the Tenant, and while copies of complaints were submitted into evidence, not a single other occupant in the residential property testified at the hearing. In other words, the entirety of the Landlord’s evidence that might prove significant interference or an unreasonable disturbance of another occupant consists of unsworn, third party statements.

In the absence of witnesses, who are affirmed on the record before giving evidence, and who may be subject to cross-examination by a respondent, I place little evidentiary weight on the third party statements proffered as evidence.

Likewise, while the Landlord's agent (who is the on-site resident manager) gave a first-hand account of various issues, they did not at any point advance any argument, or make any submissions, that the numerous complaints (or callouts to emergency services or TechBC) resulted in a *significant* or *unreasonable* interference or disturbance to them.

It is not lost on me that the resident manager certainly has their hands full in this apartment building, but the evidence does not persuade me to find that the Tenant's conduct has risen to the level of significant interference, or, that it was an unreasonable disturbance as contemplated by subsection 47(1)(d)(i) of the Act.

In summary, after taking into careful consideration all of the evidence before me, it is my finding that the Landlord has not, on a balance of probabilities, proven the grounds on which the Notice was issued. Therefore, I order that the Notice be cancelled effective immediately. The tenancy will continue until it is ended in accordance with the Act.

### Conclusion

**The application is hereby granted.**

**The One Month Notice to End Tenancy for Cause (dated November 8, 2023) is cancelled effective immediately.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: April 1, 2023

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Residential Tenancy Branch