



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

A matter regarding Langley Lions Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an application filed by the tenant pursuant the *Residential Tenancy Act* (the "Act") for An order to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 and 55.

The tenant attended the hearing with an advocate, NC. The landlord was represented by its agent, JD. The landlord acknowledged service of the tenant's Notice of Dispute Resolution Proceedings package and the tenant acknowledged service of the landlord's evidence package.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Rule 6.11 of the Residential Tenancy Branch Rules of Procedure ("Rules") and that if any recording was made without my authorization, the offending party would be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation and potential fine under the Act.

Each party was administered an oath to tell the truth and they both confirmed that they were not recording the hearing.

### Issue(s) to be Decided

Should the landlord's notice to end tenancy for cause be upheld or cancelled?

### Background and Evidence

At the commencement of the hearing, I advised the parties that in my decision, I would refer to specific documents presented to me during testimony pursuant to rule 7.4. In accordance with rules 3.6, I exercised my authority to determine the relevance, necessity and appropriateness of each party's evidence.

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

On November 29, 2022, the landlord personally served the tenant with a 1 Month Notice to End Tenancy for Cause and the tenant filed an application to dispute it on December 1, 2022. A copy of the notice to end tenancy was provided as evidence and states the following reasons for ending the tenancy:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. 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;
3. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;

The landlord gave the following testimony. The rental unit is located in a building whose population is vulnerable, mostly seniors. The tenancy began on January 1, 2017 and the tenant had no issues until late 2022. The landlord testified that on one occasion, the tenant was in the shower for a long time with a facecloth plugging the drain, causing condensation throughout the bathroom and making the floors wet. When the landlord went to investigate, the tenant was incoherent and mumbling. The police and an ambulance were called, and hours were spent waiting for them. The tenant admitted to the landlord that he was weaning himself off methadone and he was "slipping". A letter sent to the tenant on October 17, 2022 was referred to during the landlord's testimony which notes the tenant's behaviour was off and that the tenant was unaware of the extent of the water everywhere. It notes that this was the third time in 2 months that the tenant has demonstrated concerning behaviour.

The tenant has been seen numerous times in the hallways not wearing any clothing, sometimes wrapped in a blanket. The landlord did not provide any dates and times of the nude wandering incidents during testimony, though a single incident report dated November 20, 2022 was referred to during testimony.

The landlord called witness EV who testified that he has seen the tenant walking around without underwear and he's personally directed the tenant back to his unit. He could

not recall any specific dates. He knows the tenant is sick and the tenant has asked EV to remind him when he is sick. The day the flooding happened, the tenant's room was stinky.

The landlord's second witness DL testified she's been called to the building 4 times due to this tenant, starting back in November with water running and steam. He was in the bathroom with water running all night long. The latest incident was in the lobby, date unknown, where the tenant was walking around with a cover on him and had to be coaxed back into his unit. She related an incident where the tenant tried entering another tenant's unit but could not refer to a date of the incident and doesn't have any records of it to refer me to.

The tenant testified that he has never taken street drugs or opioids. He has been trying to get himself off painkillers on his own which he admits was stupid. He's now under the care of a doctor and his doctor has developed a plan for him which he is sticking to. His trips to the hospital have been diminished because the anti-nausea medication prescribed to him is working well. He is an insomniac and when he misses the intervals for taking his medication, he goes through withdrawals. He acknowledges he was being foolish in trying to decrease his medication on his own, without the care of a doctor but now he's under a doctor's care.

### Analysis

I find the tenant served with the landlord's 1 Month Notice to End Tenancy for Cause on November 28, 2022 and that he filed his application to dispute the notice within 10 days, on December 1, 2022 in accordance with section 47 of the Act. When a tenant files the application, the onus is on the landlord to prove the reasons for ending the tenancy under Rule 6.6 of the Residential Tenancy Branch Rules of Procedure. For the reasons set out below, I find the landlord has not been successful in doing so.

The landlord cited examples of the tenant leaving the shower running on one occasion leaking water into the unit below. In the letter to the tenant dated October 17, 2022, the landlord refers to the incident as a water leak, not as a deliberate attempt to damage the unit. The letter also states that this is the third time the tenant demonstrated "concerning behaviour" but the letter provides no details as to what the previous two incidences were. As such, I find the landlord has not provided the tenant with sufficient notice regarding the allegedly concerning behaviour of the tenant.

During the hearing, the landlord repeatedly stated that such behaviour is indicative of potentially more dangerous behaviour such as leaving a stove unattended, however the

landlord provided no evidence of the tenant ever doing so. I find the landlord's fears are speculative rather than supported by facts. I am not satisfied the tenant has put the landlord's property at significant risk.

Moreover, the landlord's witnesses stated there were 4 instances of the tenant wandering around the building without any clothing but was unable to provide any details about these incidences, such as dates and times. Though the landlord directed my attention to a single incident report dated November 20, 2022, only one other incident was described by the witness DL and she could not recall the date of the incident or provide an incident report to corroborate it. No written warnings to the tenant appear to have been given about the second incident.

The witness DL testified that the 4 times she recalls happened between November 2022 and March 2023, a time frame **after** serving the tenant with the notice to end tenancy. While these examples may reflect a continuity of behaviours, I am to consider whether the conditions for ending the tenancy existed at the time the Notice was served. I find they did not.

I also turn to the reasons for ending the tenancy. The Merriam-Webster dictionary defines **significant** as, "*having or likely to have influence or effect, of a noticeably or measurably large amount*". **Unreasonable** means, "*exceeding the bounds of reason or moderation*". Though the incidences of the water leak in the bathroom and the single documented incident of wandering in the building wearing a blanket may have been disturbing to the other occupants, I do not find these episodes to be significant or unreasonable.

Lastly, the landlord alleges the tenant seriously jeopardized the health, safety or lawful right of the other occupants or the landlord. Although the landlord provided some documents related to pest removal, no mention of it was made during testimony and neither the landlord nor her witnesses referred me to the material during the hearing. As such, I find insufficient evidence to satisfy me the tenant poses such a threat due to pests. Similarly, the landlord did not direct my attention to any complaints made about the tenant made by other occupants, other than the witness EV saying the tenant's wet clothes were "stinky". Once again, I find it would be unjust to end a tenancy with the tenant without providing him notice in writing of what behaviour the landlord wants corrected.

Given these findings, I cancel the notice to end tenancy for cause. This tenancy shall continue until it is ended in accordance with the Act.

Conclusion

The notice to end tenancy is cancelled and of no further force or effect.

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: April 19, 2023

---

Residential Tenancy Branch