



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding BC HOUSING MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, AAT, PSF, LRE, OLC

### Introduction

The Tenants applied for dispute resolution ("Application") and seek the following:

- an order canceling a One Month Notice to End Tenancy for (the "Notice") under section 47(4) of the *Residential Tenancy Act* (the "Act");
- access to the unit under section 70 of the Act;
- for the Landlord to provide services or facilities under section 62(3) of the Act;
- to suspend or set conditions on the Landlord's right to enter the rental unit under section 70 of the Act;
- for the Landlord to comply with the Act under section 62 of the Act

Parties appeared for both the Landlord and the Tenants. The parties affirmed to tell the truth during the hearing. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

The Notice of Dispute Resolution Package (the "Materials") were provided to the Tenants by the RTB on February 6, 2023. The Tenants testified they served the Materials to the Landlord on February 27, 2023 in person. Rule 3.1 of the *Rules of Procedure* states that the applicant's materials must be served within three days of them being made available. As the Landlord confirmed receipt of the Materials and that they had sufficient time to review them, I find that the Tenants' Materials were sufficiently served under section 71(2)(c) of the Act.

J.S. testified that they served the Landlord's supporting evidence on the Tenants via registered mail on May 3, 2023. The Tenants stated they had the Canada Post notification, though they had not picked up the mail so had not viewed the Landlord's

evidence. Policy Guideline 12 on Service Provisions confirms that where registered mail is not picked up, receipt continues to be deemed to have occurred on the fifth day after mailing. Therefore, I find the Landlord's evidence was served in accordance with section 88 of the Act and admit it to consideration.

#### Preliminary Issue: Amendment

Only Tenant M.F. was listed on the Application. Both parties agreed that R.E. was also a Tenant and that the Application should be amended to include R.E. I Note R.E. is listed as a Tenant on both the Notice and the tenancy agreement. I exercise my authority under section 64(3)(c) of the Act to amend the Application accordingly.

#### Preliminary Issue: Severing

The Tenants applied for multiple remedies under the Act, some of which were not sufficiently related to one another.

Rule 2.3 of the *Rules of Procedure* states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After reviewing the issues raised by the Tenants, I determined that the primary issue is the Tenants' request to cancel the Notice and I exercised my discretion to dismiss with leave to re-apply, all claims other than the one related to the Notice.

#### Issues to be Decided

- 1) Should the Notice be canceled?
- 2) If not, is the Landlord entitled to an Order of Possession?

#### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this Decision.

The parties agreed on the following regarding the tenancy:

- The tenancy began on December 1, 2021.
- Rent is geared to income and is presently \$670.00 per month due on the first day of the month.
- The Landlord did not require the Tenants to pay a security deposit.
- There is a written tenancy agreement which was entered into evidence.
- The Tenants still occupy the rental unit.

The Landlord testified as follows. The Notice was issued not because of the Tenants themselves, but because of their guests and associates and the impact they were having on other residents in the rental property.

There had been incidents where someone had been trying to open the coin dispenser in the laundry room in the rental property and resident's clothes were stolen from the laundry room. Initially the Landlord thought it was M.F., though they later found out it was the Tenants' guest. Security camera stills were entered into evidence of the person who stole resident's clothes. There was also images of the Tenants blocking the locks of the laundry room so they could use the laundry facilities after hours.

M.F. Testified as follows. They used the laundry facility after hours so they would not be accused of theft. They stated they were not a thief and did not condone theft. Any guests of theirs who stole would not be allowed to come back. They did not know the person who was arrested for theft of the clothes from the rental property.

M.F. stated that they do have guests and "help a lot of people". During the hearing the Tenants discussed how people would stay in the rental unit with them for extended periods of time. The people who stayed with them included an individual, R.E., who was allowed to stay for two weeks, though ended up staying for two and a half months. The Tenants found out R.E. was a rapist and asked them to leave, but they refused.

The Landlord called a witness, T.P., Property Manager, who testified as follows. They observed the Tenants letting their friends into the rental property. They had looked at footage from the security camera and identified one of the people let in by the Tenants as the person who stole resident's clothes from the laundry room. The police were called regarding this incident.

The next day T.P. saw the person who stole clothes at the rental property once again and saw them buzz the Tenants' unit to enter the building. The police were called again

and when they arrived the person was no longer in the building. The Tenants had told the person to leave.

In response to the testimony of T.P., M.F. stated they did not like the person who had stolen the clothes and that they were R.E.'s guest. They had heard stories about them being a thief and told R.E. not to let them in. They did acknowledge that it was R.E. who let in the clothes thief and they "take the onus on that".

### Analysis

Section 47 of the Act states that a landlord may end a tenancy for cause by issuing a Notice to End Tenancy. Section 47(1) provides the circumstances under which a landlord may issue a Notice to End Tenancy for Cause.

Section 47(4) of the Act states that a tenant may dispute a Notice to End Tenancy for Cause by making an application for dispute resolution within 10 days of receiving the notice. The Notice is dated January 16, 2023 and the Application was filed on January 26, 2023. I find that the Tenant filed their Application within the timeframe set out in Section 47(4) of the Act.

A copy of the Notice was entered into evidence by both parties. The Notice provides an effective date of February 28, 2023. I find the Notice complies with the form and content requirements set out in section 52 of the Act. The reasons for the Notice are as follows:

- Tenant has allowed an unreasonable number of occupants in the unit
- Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk
- Tenant or a person permitted on the property by the 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 of the property.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Cause are listed as "Tenants have allowed guests to enter the building that have stolen laundry, broken into common room and taken things from the common room. Video evidence of tenant letting vagrants into building".

Rule 6.6 of the *Rules of Procedure* states that when a tenant applies to cancel a Notice to End Tenancy, the landlord must prove the reason they wish to end the tenancy and that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The matter relating to guests of the Tenants stealing laundry from occupants of the rental property was discussed during the hearing. I find that if this allegation is proven, on the balance of probabilities, to have occurred as stated then it would be grounds to end the tenancy. Theft is an illegal activity and I accept that an individual having items such as clothes stolen, would affect that individual's quiet enjoyment, security, safety or physical well-being. This cause was listed on the Notice and is reflected in section 47(e)(ii) of the Act.

Having carefully considered the testimony and evidence presented to me, I find that the Landlord has proven, on the balance of probabilities, that the Tenants are responsible for the above breach as alleged.

In reaching this conclusion, I give significant weight to the clear and persuasive testimony of T.P. which stated that the Tenants were observed allowing the person who stole clothes into the rental property. Furthermore, the same person was observed entering the rental property by buzzing the Tenants rental unit to gain entry the next day which was not disputed by the Tenants. I find that there is a link between the person who stole clothes and the Tenants and that the Tenants came to allow this person into the rental property.

I found the Tenants testimony regarding their connection to the person who stole clothes to be inconsistent in some respects. Though the Tenants did not dispute the person did steal clothes, they initially stated the person was not known to them. The Tenants then stated that the person was a guest of R.E., who was staying with them at the time and that they heard the person was a thief. They also then stated it was R.E. who let in the person who stole clothes and accepted responsibility for that. Given this, I dismiss the Application without leave to reapply.

Based on the above findings, the Landlord is granted an Order of Possession pursuant to section 55(2)(b) of the Act. I find that the Tenancy ended on February 28, 2023 in accordance with the Notice.

Conclusion

The Application is dismissed.

The Landlord is granted an Order of Possession. A copy of the Order of Possession is attached to this Decision and must be served on the Tenants. The Tenants have two days to vacate the rental unit from the date of service or deemed service. If the Tenants do not comply with the Order of Possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that court.

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: May 24, 2023

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Residential Tenancy Branch