



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PARALLEL 50 REALTY AND PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      CNC-MT, FFT

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause, more time than prescribed to dispute a notice to end the tenancy, and to recover the filing fee from the landlord for the cost of the application.

The tenant and an agent for the landlord attended the hearing and each gave affirmed testimony. The landlord's agent also called 1 witness who gave affirmed testimony. The parties were given the opportunity to question each other and the witness, and to give submissions.

The landlord has not provided any evidentiary material, and agrees that the tenant's evidence has been received. Therefore, all evidence of the tenant has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Should the tenant be granted more time than set out in the *Residential Tenancy Act* to dispute a notice to end the tenancy?
- Has the landlord established that the One Month Notice to End Tenancy for Cause dated March 20, 2023 was given in accordance with the *Residential Tenancy Act*, specifically with respect to the reasons for issuing it?

### Background and Evidence

**The landlord's agent** testified that this fixed-term tenancy began on February 1, 2022 and reverted to a month-to-month tenancy after January 31, 2023, and the tenant still

resides in the rental unit. Rent in the amount of \$1,500.00 was originally payable on the 1<sup>st</sup> day of each month, which was increased to \$1,530.00 effective January 1, 2023, after a Notice of Rent Increase was issued on September 29, 2022. The tenant also pays \$50.00 per month for parking. There are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$750.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment in a 90 unit building.

The landlord's agent further testified that on March 20, 2023 the landlord's agent attached a One Month Notice to End Tenancy for Cause to the door of the rental unit. A copy has been provided by the tenant for this hearing and it is dated March 20, 2023 and contains an effective date of vacancy of April 30, 2023. The reasons for issuing it state:

- Tenant has allowed an unreasonable number of occupants in the unit/site/property/park;
- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk.

The landlord's agent further testified that there has been a substantial amount of traffic; a lot of people coming and going, and believes that the tenant's brother also lives in the rental unit, who is not named in the tenancy agreement. Complaints have been received about rowdiness, constant for at least 3 weeks or a month. The rental unit has 1 bedroom, and believes the tenant's brother and another person reside there. The landlord's agent is not certain that they live there, but appeared to be, coming and going on a regular basis daily or multiple times per day.

The landlord's agent knows little about the remaining reasons for issuing the Notice, but testified to a continuous disturbance and people living in a vehicle in the visitor parking area. Multiple tenants have called with concerns due to noise and people walking to the rental unit.

There was an inspection, and cigarette butts have been found all over the place and what appeared to be drug paraphernalia.

Alarms went off for about 5 hours on a weekend. The manager was away when all fire alarms went off and the fire department was called. Everyone was escorted out at 9:30 at night, including elderly people. There was something smoking on the stove and

when the landlord tried to get the tenant's attention, instead of answering the door, the tenant left via the balcony. It was quite a concern.

When the tenant is stumbling in the hallway tenants were feeling unsafe, concerned that the tenant was on some sort of drug and that he was unsafe.

**The landlord's witness** testified that the fire alarm was going off and there was no response from the tenant when the fire department arrived.

The witness is the office manager of the rental complex and testified that a complaint was received. In the last 2 months a couple of people called in about noise complaints and the tenant was given verbal notice; he had been stumbling in the hallway. A few instances didn't sit well with the landlords, including the tenant trying to use his mail key to enter his unit.

**The tenant** testified that the landlord's testimony is a lot of hearsay. The tenant is the only person living in the suite and is not there for 16 days per month minimum due to his work schedule. The tenant's brother moved away 7 or 8 months ago and the landlord's testimony is fabricated.

The tenant was home sick with COVID when the fire alarm went off, and he had to stay home. He found a fireman standing over his bed who woke the tenant up. He said it was ok, but the tenant was in a panic and the fireman told the tenant to calm down. A pot that had abit of grease in it was on the stove, and the stove was on low.

The tenant is friends with a lot of people, and denies that anyone lived in the parking lot. The tenant does not believe he was stumbling around, and would be surprised if anyone was afraid of him.

The tenant received the One Month Notice to End Tenancy on March 23, 2023, but was away working. There was an error in the tenant's initial application and had to re-file, which is why the tenant has applied for more time.

The tenant further testified that rent is currently \$1,530.00 per month and the tenant doesn't have a car.

### Analysis

Firstly, I accept the testimony of the tenant that his initial filing for this dispute contained errors and that the tenant had to re-file. The landlord made no issue with respect to the lateness of the dispute, and therefore, I grant the tenant the additional time to dispute the Notice.

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*, which can include the reason(s) for issuing it. I have reviewed the One Month Notice to End Tenancy for Cause (the Notice) provided by the tenant and I find that it is in the approved form and contains information required by the *Act*. The reasons for issuing it are in dispute.

The landlord's agent was certainly not prepared for this hearing, having testified that the tenancy began on February 1, 2022, but issued a Notice of Rent Increase on September 29, 2022 effective January 1, 2023. A landlord may not increase rent that is effective until 1 full year after the tenancy began.

The landlord has not provided any evidence to support the reasons for issuing the Notice, and the tenant disputes that there are an unreasonable number of occupants in the rental unit. The tenant also disputes the testimony that any of the tenant's friends lived in the parking lot. The tenant also testified that he doesn't have a car.

The tenant also testified that the fireman woke him up, which is contrary to the testimony of the landlord's agent and the landlord's witness who testified that there was no response from the tenant when the fire department arrived.

There is absolutely no evidence to support complaints from other tenants. The landlord's witness testified that a few instances didn't sit well with the landlord's agents, but I have no idea what the witness was referring to.

Considering the testimony and the evidence, I am not satisfied that the landlord has established any of the reasons for issuing the Notice, and I cancel it.

Since the tenant has been successful with the application, the tenant is also entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenant in that amount and I order that the tenant be permitted to reduce rent for a future month by

that amount, or may serve the order on the landlord and file it for enforcement in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

### Conclusion

For the reasons set out above, the One Month Notice to End Tenancy for Cause dated March 20, 2023 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00 and I order that the tenant be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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 16, 2023

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Residential Tenancy Branch