



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, CNC, MNDCT, RP, PSF, OLC, OPE, FFT

### Introduction

The tenants applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The tenants ask me for the following orders against the landlords.

1. Cancellation of a 10-day Notice to End Tenancy for Unpaid Utilities, issued on or about 14 March 2023 [the '10-day Notice'].
2. Cancellation of a One-month Notice to End Tenancy for Cause, issued on or about 14 March 2023, alleging that the tenants significantly interfered with, or unreasonably disturbed, another occupant or the landlords [the 'Notice for Cause'].
3. Payment of \$465.85 in compensation for purchase of a cot and air purifier [the 'Compensation Claim'].
4. Direction that the landlords repair the exterior deck [the 'Repair Claim'].
5. Direction that the landlords arrange for independent air-quality testing of the rental unit [the 'Service Claim'].
6. Direction that the landlords comply with the *Residential Tenancy Act* [the 'Act'] or tenancy agreement [the 'Compliance Claim'].
7. Reimbursement for the \$100.00 filing fee for this application.

The landlords also applied to the RTB for Dispute Resolution. The landlords ask me for the following orders against the tenants.

1. Exclusive possession of the rental unit in favour of the landlords.
2. Reimbursement for the \$100.00 filing fee for this application.

The landlords appeared at the hearings on 9 May and 22 June 2023. The tenants also appeared, along with an advocate.

### Issues to be Decided

I am now left with one issue to decide: should I cancel the Notice for Cause, as *per* the tenants' application? Or should I uphold it, *per* the landlords' application?

In seeking to decide this issue, I refer to the Notice for Cause, which sets out the basis on which the landlords seek to end the tenancy. I have re-phrased this alleged cause as the following question for me to answer:

1. Have the tenants significantly interfered with, or unreasonably disturbed, another occupant or the landlords?

### Background & Evidence

In accordance with rule 3.6, I have determined the relevance, necessity and appropriateness of each party's statements and records. While I have turned my mind to all the statements and records of the parties, I have not recited in this decision all details of the respective statements, records and arguments. But I have recited the principal aspects of each of the parties' respective positions and support for those positions.

The landlords relied upon several different problems they have with the tenants to form the basis for their Notice for Cause. I will recount one set of problems in particular, which is recounted by one occupant of the rental property [the 'Complainant'], who wrote a letter about the conduct of the tenants. He also appeared at the hearing and adopted the content of this letter.

In it, the Complainant wrote that neither he nor three other occupants can:

'take much more of the bullshit we receive n [sic] a weekly basisi [sic] from [the tenants]. With the way [they want] to control us its draining. my mental health is on a steady decline because im scared to come home wondering what the next issue is going to be. Im anxious to read my texts because the landlord keeps asking if ive done this or that or this. I dont like to leave my house because [the tenants are] always there watching. i used to be an outgoing person but the effects that [the tenants'] bullying is having on me is making me become a different person. i no longer know what i can do to try and help my situation but something has to change... Over the past year since [the tenants] took a disliking to us, he has threatened to call the police on multiple occasions... all of the times he threatened to ring the police and they finally come and reassure us that we are not being bad neighbours and actually th [sic] stuff he was doing was not okay... [the tenants'] car alarm is extremly [sic] over the top... 2-3 times a day that goes off... All times of night... (As my landlord knows i sublet my rooms to other people...) i've had 2

tenants now move out of the property because of the way [the tenants] talks to them, and i have another 2 tenants... who are scared to talk with him...'

The Complainant also wrote in his letter about the tenants leaving garbage about the property, including waste from the tenants' job sites, and unused furniture.

The tenants had an opportunity to cross-examine the Complainant on his letter. Other than pointing out an insignificant discrepancy regarding the time of day of one incident recounted in this letter, the tenants had few questions for the Complainant. In sum, his letter and his testimony remained unchallenged.

For their part, the tenants submitted several letters from other occupants of the property. One was a letter from a former occupant who left because of the noise and disturbances caused by a different occupant who had complained to the landlords about the tenants ['Occupant A']. There was a letter from a neighbour, complaining of Occupant A yelling and screaming and threatening people and fighting with police. A third letter from another occupant contains a reference to moving out because of the behaviours of Occupant A. And a fourth letter from another occupant recounts Occupant A ranting and screaming. A fifth letter from another occupant refers to Occupant A yelling 'at the top of her lungs', and referring to the tenants as, 'extremely trustworthy, compassionate, conscientious, hard working'. None of the authors of these letters participated in these hearings, nor did any of their letters specifically refer to the Complainant's issues with the tenants.

### Analysis

Have the tenants significantly interfered with, or unreasonably disturbed, another occupant of the rental property or the landlords?

In assessing what constitutes unreasonable disturbance, I consider section 28 of the *Residential Tenancy Act* [the 'Act'] reads (in part) that, 'A tenant is entitled to quiet enjoyment including, but not limited to... freedom from unreasonable disturbance.' This section makes a connection between 'unreasonable disturbance' and 'quiet enjoyment'.

In this light, I can ask whether the tenants have been doing things that prevent the other occupants of the rental property from quietly enjoying their rental units.

But what does it mean to 'quietly enjoy'?

To help me answer this question, I will look at a case from the Supreme Court of British Columbia [the 'BCSC']. This is because the BCSC can help define for me what is meant by 'quiet enjoyment'. Also, what the BCSC decides is the law I must follow.

The BCSC summarised 'quiet enjoyment' in a case entitled, *Heckert v. 5470 Investments Ltd.*, 2008 BCSC 1298. In that case, the BCSC reminded us of the following:

- 'Quiet enjoyment' means being able to, 'use the premises for all of the usual purposes incidental to occupation.'
- A breach of quiet enjoyment requires proof of a substantial interference with this use.
- Substantial interference is more than, 'Mere temporary inconvenience...'

And the RTB have issued a guideline regarding quiet enjoyment. This guideline builds on what the BCSC have said. The guideline reads:

'Temporary discomfort or inconvenience does not constitute a basis for a breach of the entitlement to quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.'

Considering the above, I'll ask myself: Have the landlords proved that the tenants...

1. probably interfered with the other occupants' use of their rental units; and, if so,
2. that such interference was frequent and ongoing?

So, what is it that the landlords say the tenants have done?

I can answer this question by summarizing the Complainant's letter. In it, the Complainant says the tenants have:

- frightened and bullied the Complainant, and caused him to become reluctant to leave his unit for fear of being watched by the tenants;
- made repeated threats to the Complainant to call the police for matters that the police apparently have deemed not worthy of investigation;
- disturbed the Complainant and other occupants with a loud car alarm that trips several times a day (and night);
- intimidated the Complainant's sub-tenants such that they have either moved out or been afraid to interact with the tenants; and
- inappropriately disposed of garbage and furniture about the rental property.

As noted above, the tenants did not challenge these complaints in any substantive way.

I accept that the complained-of behaviour not only probably interfered with the Complainant's use of his rental unit (e.g. he feels confined to it by the behaviour of the

tenants; his sub-tenants have left because of the behaviour; *etc*) but that this interference is more than a mere temporary inconvenience.

In terms of 'significant interference', it is worth noting that a case decided by the BCSC in 2012 accepted that a tenant frequently calling the police to the rental unit without a legitimate basis was a sufficiently-significant interference so as to end a tenancy: *vide Hawk v. Nazareth*, 2012 BCSC 211. While not relying solely on the Complainant's accounts of the tenants threatening to call the police (and actually calling the police) for illegitimate reasons, I find that this behaviour contributed to the unreasonable disturbance of the Complainant.

As a result, I uphold the Notice for Cause.

### Outstanding Matters

After the first hearing of these applications, I dismissed the application to cancel the 10-day Notice.

I also sought written arguments from the parties on the relationship between the Notice for Cause and the:

- a. Compensation Claim;
- b. Service Claim;
- c. Repair Claim; and
- d. Compliance Claim.

Neither party submitted any such written arguments.

I have determined that the nature of the Compensation Claim; Service Claim; Repair Claim; and Compliance Claim was unrelated to the dispute over the Notice for Cause (*i.e.* that the tenants significantly interfered with or unreasonably disturbed another tenant or the landlords). Because of this, I dismiss these claims *per* rule 2.3 of the RTBs Rules of Procedure.

In doing so, I do not make any finding on the merit of these claims: only that their claims is unrelated to the Notice for Cause.

As the tenancy is at an end, I will only grant leave to the tenants to re-apply for the Compensation Claim and Compliance Claim.

### Conclusion

I make an Order of Possession in favour of the landlords. This order is effective two days after the landlords serve it upon the tenants. If the tenants fail to comply with my order, then the landlords can file this order with the Supreme Court of British Columbia, and enforce it as an order of that court.

At the end of the tenancy the tenants must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Tenants and landlords both have an obligation to complete a move-out condition inspection at the end of the tenancy. To learn about obligations related to security deposits, damage and compensation, search the RTB website for information about after a tenancy ends.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 21 July 2023

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Residential Tenancy Branch