



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REGAL EIGHTY MANAGEMENT  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### 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. The hearing was originally scheduled to be heard on July 28, 2023, which was adjourned to August 23, 2023, and my Interim Decision was provided to the parties.

On August 23, 2023 the tenant and an agent for the landlord attended the hearing, and each gave affirmed testimony. The landlord also called 1 witness who gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions. The parties agreed that all evidence had been exchanged, all of which has been reviewed and the evidence I find relevant to the application is considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the One Month Notice to End Tenancy For Cause dated May 6, 2023 was issued 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 month-to-month tenancy began on September 1, 2021 and the tenant still resides in the rental unit. Rent in the amount of \$650.00 is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$325.00 which is still held in trust by the landlord, and no pet damage deposit was

collected. The rental unit is a single occupancy room, and the landlord's agent does not reside on the property. There is no written tenancy agreement.

The landlord's agent further testified that on April 6, 2023 the tenant was personally served with a One Month Notice to End Tenancy For Cause, and a copy has been provided by the tenant for this hearing. It is dated May 6, 2023 and contains an effective date of vacancy of April 6, 2023. The landlord's agent testified that the dates were mixed up on the form. The reasons for issuing it state:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
- 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.

The tenant has been using drugs, and has been shouting in the hallways, throwing garbage in the hallway and using abusive language with staff of the building and other tenants. The tenant lets people in the building, and delivers drugs.

**The landlord's witness** testified that he lives in the rental complex, and the tenant wakes him up quite often, yelling and screaming and if he doesn't get his way or get what he wants, he smashes things in his room.

The witness requires oxygen 24/7. The tenant told the witness that he hopes he dies. That's when it first started.

The tenant says that he has a brain injury, but it seems selective. Too many residents complain about yelling and screaming and the tenant saying he's going to kill everyone. An example is after the last hearing date, police were called during a temper tantrum wherein the tenant said he was going to kill people.

The tenant also runs drugs for other people. He has a good heart but also behavioral problems; he decides when to turn it off. Some have threatened to hurt him if he stays, which would not be ideal either.

**The tenant** testified that 6 years ago the tenant had a traumatic brain injury, and cannot turn it off or on. The tenant will agree that behaviour has been inappropriate, but the tenant hadn't received any treatment.

Two months ago the tenant had a seizure and frontal lobe damage. The tenant is angry and frustrated all the time and has PTSD which has also not been treated. The tenant is currently waiting for an appointment with JF STRONG, and has been going to counselling twice a week for behavioral therapy and for PTSD with a different counsellor. It was after the seizure that the tenant discovered that he could talk to someone. The tenant has no family and no support.

The tenant has not spoken to anyone unless contacted first, and won't.

On July 20 a guy arrived at the rental unit to do some work, who had threatened the tenant before, but the landlord said that the work had to be done. The tenant didn't feel safe; he had sharp instruments. The landlord was kicking and banging on the tenant's door, and the tenant lost it.

Behaviour issues have been a problem for a long time, and the tenant is trying to get into rehabilitation. No one has approached the tenant saying that the tenant's behaviour has caused problems or scared them, and the landlord won't tell the tenant who has complained, so the tenant is not convinced that anyone complained.

The landlord has started fights with numerous people who react to him. He started a fight with someone and called police saying he feared for his life. The tenant saw the whole thing, and the guy was taken away. The landlord starts lots of fights and numerous people have yelled, but he always starts it. The tenant tries to stay away from him, only speaking to him when he's in the office.

The tenant has worked at not losing his temper since receiving the Notice to end the tenancy, and the landlord told the tenant that he was thinking of cancelling the Notice because the tenant's behaviour was better.

Illegal activity is a bold faced lie. The tenant uses drugs, and so do a lot of others, but the tenant has never run drugs.

The tenant denies letting people into the building, but if someone goes in behind the tenant, that's not for the tenant to deal with.

#### SUBMISSIONS OF THE LANDLORD:

Behaviour is a problem for the landlord. The landlord needs a safe place for all tenants and for staff. The tenant cannot control his behaviour, which is not acceptable and not safe for staff. Some residents have mental issues.

#### SUBMISSIONS OF THE TENANT:

Since the Notice was issued, the tenant has been trying to get help and now has a positive way to deal with it. The tenant did not know that there was help out there for people with a brain injury.

#### Analysis

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), 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.

I accept the testimony of the tenant that he is getting counselling for PTSD and brain trauma issues. However, it is not for me to decide that any activity that has taken place since the Notice was issued is a reason for cancelling the Notice, but only for me to decide if the landlord has established that the landlord had cause to issue the Notice at the time it was issued, which in this case was May 6, 2023.

The tenant does not dispute the allegations, and I accept the undisputed testimony of the landlord and the landlord's witness about the tenant yelling and screaming and the tenant saying he's going to kill everyone.

In the circumstances, I am not satisfied that the landlord has established any illegal activity, however I find that the landlord has established that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. Therefore, I dismiss the tenant's application to cancel the Notice.

The law also states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an order of possession in favour of the landlord, so long as the Notice given is in the approved form. Having found that it is in the approved form, I grant an order of possession in favour of the landlord. Since the effective date of vacancy, corrected to the nearest date that complies with the law, May 31, 2023 has passed, I grant the order of possession effective on 2 days notice to the tenant. The tenant must be served with the order, which may be filed with the Supreme Court of British Columbia for enforcement.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenant.

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: August 25, 2023

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Residential Tenancy Branch