



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding PACIFICA HOUSING ADVISORY  
ASSOCIATION 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 One Month Notice to End Tenancy For Cause.

The tenant and an agent for the landlord attended the hearing and the tenant was assisted by an Advocate, and 2 observers also attended. The landlord's agent and the tenant each gave affirmed testimony. The parties were given the opportunity to question each other and to give submissions.

The parties agree that all evidence has been exchanged, all of which has been reviewed and the evidence and testimony 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 was issued in accordance with the *Residential Tenancy Act*?

### Background and Evidence

**The landlord's agent** testified that this month-to-month tenancy began on June 1, 2023 and the tenant still resides in the rental unit. Rent in the amount of \$475.00 is payable on the 1<sup>st</sup> day of each month, which is 30% of the household income of the tenant, and there are no rental arrears. On May 26, 2023 the landlord collected a security deposit from the tenant in the amount of \$272.50 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of a Program Agreement has been provided by the landlord and the tenant for this hearing.

The landlord's agent further testified that on July 24, 2024 the landlord served the tenant with a One Month Notice to End Tenancy For Cause (the Notice) by registered mail. A copy of the Notice has been provided by the landlord for this hearing, and it is dated July 24, 2024 and contains an effective date of vacancy of August 31, 2024. 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;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The tenant had threatened and swung a bat at another person on the rental property, with staff and members of the public around. The situation was high tension, and was diffused, but a scary situation. Other instances of verbal aggression or possible violence have occurred.

Prior, someone heard a shouting argument from the rental unit and an employee checked and found a bat outside the door and asked the tenant to take it in, which the tenant did. A male guest of the tenant, around April 10, 2024 during the interaction had offhandedly mentioned that the tenant hit him with the bat. The tenant was provided with a warning letter by the landlord, and a copy has been provided for this hearing. It is dated April 10, 2024 and references "First & Final Warning – Violent Conduct and references Section 47 of the *Residential Tenancy Act*. It also states that any further violent or threatening actions will result in an application for an end to the tenancy. Also provided is a 3-page Weapons in the Workplace Policy, last updated on July 29, 2024.

**The tenant** testified that the tenant's ex-partner was the guest at the rental unit. The couple had been together for almost a year, and the ex-partner was abusive, and not nice to the tenant on many occasions, and was absolutely violent with the tenant.

The tenant put the bat outside the rental unit on April 10, 2024 because the couple had a heated disagreement, and the tenant didn't want the bat to be handy. The tenant was trying to get him to leave, which is what the shouting was about.

In July, the tenant was scared and to a breaking point, and wanted the guest to leave. None of the staff of the rental complex helped the tenant.

The tenant has also provided a copy of a One Month Notice to End Tenancy For Cause, which is dated July 23, 2024 and contains an effective date of vacancy of August 31, 2024.

#### SUBMISSIONS OF THE LANDLORD'S AGENT:

Generally, the whole idea that the tenant's actions are creating a scary environment for staff and other people around. It was disturbing for people and sounded like something terrible was happening in the rental unit; not something that people or staff should have happen around them. There is a specific no weapon policy because it can be very triggering for people in supportive housing, regarding defensiveness. If the Notice is upheld, the landlord would be content with an order of possession effective at the end of October, 2024.

#### SUBMISSIONS OF THE TENANT'S ADVOCATE:

Giving context to the disputes, the tenant was in an abusive relationship and does not pose a danger and was taken out of self preservation. The July incident was not a weapon. Losing this tenancy would be a huge hardship for the tenant, and it would be unjust to punish the tenant, who was not violent but acting in self preservation. The tenant is no longer in that relationship, and the guest harassing the tenant is not the tenant's fault. The context of the dispute is important. The tenant asked that the ex-partner be banned from the property. Losing housing will not help anything, and the tenant is doing everything in her power to make her own life better, including ending the abusive relationship. It would be unfair to punish the tenant due to a guest who is harassing the tenant.

#### 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.

With respect to the reasons for issuing the Notice, I have reviewed the landlord's Weapon Policy, and although I agree that such disturbances affect the quiet enjoyment of other tenants and staff, I do not agree that a bat is a weapon, but qualifies as an object used with strike force to incapacitate a person such as a bat, stick, rock, etc. However, there is no evidence that the July, 2024 incident included using the bat as a weapon. I accept the undisputed testimony of the tenant that the bat was placed outside of the rental unit due to the abusive treatment of the tenant's ex-partner.

I have reviewed the Notices to end the tenancy provided by the parties, and although I find they are both in the approved form, they are not identical. The tenant has disputed a One Month Notice to End Tenancy For Cause dated July 23, 2024, and the landlord has provided a copy of a One Month Notice to End Tenancy For Cause dated July 24, 2024 for this hearing. The landlord's agent was not able to explain the anomaly, which I find is fatal.

As a result, I cancel the Notice(s) and the tenancy continues until it has ended in accordance with the law.

Conclusion

For the reasons set out above, the One Month Notice to End Tenancy For Cause dated July 23, 2024 is hereby cancelled.

The One Month Notice to End Tenancy For Cause dated July 24, 2024 is hereby cancelled and the tenancy continues until it has ended in accordance with the law.

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: September 26, 2024

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Residential Tenancy Branch