



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

Tenant's Application made August 25, 2016: CNC; MNDC; FF  
Landlord's Application made September 28, 2016: OPC; FF

### **Introduction**

Both parties have made Applications for Dispute Resolution. This Hearing was scheduled to consider both Applications.

The Tenant seeks to cancel a Notice to End Tenancy for Cause issued August 17, 2016 (the "Notice"); monetary compensation for damage or loss under the Act, regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlord.

The Landlord seeks an order of possession based on the Notice; and to recover the cost of the filing fee from the Tenant.

Both parties signed into the Hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

At the outset of the Hearing, I explained that Rule 3.1 of the Rules of Procedure provides that claims in an application must be sufficiently related to each other. I find that the Tenant's claim for monetary compensation is not sufficiently related to her application to cancel the notice to end tenancy. Therefore, I dismissed this portion of her application with leave to reapply.

### **Issue(s) to be Decided**

Is the Notice a valid notice to end the tenancy?

## **Background and Evidence**

The parties served each other with their notice of hearing documents by registered mail in accordance with the provisions of Section 89 of the Act.

The Landlord served the Tenant with the Notice on August 17, 2016.

The Tenant entered into a tenancy agreement with the Landlord's management company on July 20, 2013, a copy of which was provided in evidence. The Landlord's management company's name changed after the tenancy agreement was signed. A copy of the letter notifying the tenants of the name change was provided in evidence.

The rental property consists of 70 townhouses. The Landlord's agent lives in one of the townhouses and has been the resident manager for approximately 10 years.

The Landlord's agent MB gave the following testimony:

MB stated that the first warning letter was given to the Tenant on September 24, 2014. He testified that the letter warned the Tenant to clean up her back yard and maintain it in reasonable condition. MB testified that the Tenant complied with the warning letter.

MB testified that in May, 2015, the Tenant's son and his friends played soccer on the common property, damaging the grass. He stated that he asked the Tenant to stop her son from playing soccer on the common property, and noted that there is a "park right beside our property and a school nearby". MB stated that the Tenant swore at him. MB gave the Tenant a warning letter dated May 12, 2015, advising the Tenant that children are not to play soccer on the lawn and common areas and that using coarse language will not be tolerated. A copy of that warning letter was provided in evidence.

MB stated that the Tenant often has guests for more than 2 weeks at a time, contrary to the tenancy agreement.

On July 26, 2016, MB gave the Tenant a warning letter for the following reasons:

- Tenant screams and yells.
- Tenant parks in "no parking" zone.
- Tenant has additional occupants contrary to tenancy agreement.
- Tenant places her personal property on common property.
- Tenant wastes water.
- Tenant smokes marihuana in her back yard.

- Tenant has a dog contrary to tenancy agreement.

A copy of the July 26 warning letter was provided in evidence.

On July 29, 2016, MB gave the Tenant another warning letter, entitled “Breach Notice-Residential Tenancy Act”. A copy of this letter was also provided in evidence. It warns the Tenant to “find accommodation of your dog somewhere else no later than August 16, 2016”, and states, “If your dog after August 15, 2016 is still here you will be served with One Month Eviction Notice”.

The Tenant gave the following testimony:

AR stated that she believes MB is harassing her because:

- Other tenants in the rental property are allowed to park in no parking zones.
- Her dog, Finnegan, is always supervised and is well liked by other tenants. She stated that her dog is only living at the rental unit part-time. AR acknowledged that the tenancy agreement has a “no pets” term, but stated that she had a verbal agreement with MB that “Finnegan is OK”. AR stated that there are tenants in the rental property who are allowed to have dogs.

AR testified that sometimes people stay with her from out of town. She stated that a friend of hers stayed with her until she found her own place, and that she doesn’t live there anymore.

AR stated that her son does not play on the common areas anymore.

AR acknowledged that she smokes marijuana, but stated that she has a prescription for medicinal purposes.

MB gave the following response:

It is true that there are some dogs on the rental property, but they have either been given written approval by the owner or, in the case of a 16 year old dog, he was there before MB started managing the rental property. MB stated that the other two other dogs were allowed because their owners provided letters from their doctors recommending that the owners have dogs for therapeutic reasons. MB stated that some of the dogs in the Tenant’s photographs are not on the rental property.

MB stated that the smell of marijuana disturbs other occupants and that the Tenant was smoking on the common property “an hour ago”.

### **Analysis**

When a Landlord seeks to end a tenancy, the onus is on the Landlord to provide sufficient evidence that the tenancy should end for the reason(s) provided on the notice to end tenancy.

In this case, the Landlord alleges a breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so. The tenancy agreement provides that the Tenant may not keep any pets unless specifically permitted in writing by the Landlord. The Tenant did not have written permission to keep a dog.

With respect to the dog, I find that the Landlord has provided sufficient evidence that the tenancy should end. I find that this term was a material term of the tenancy agreement and that the Tenant was given written notice twice to remove the dog from the rental property. The second notice gave the Tenant 17 days to find another home for Finnegan, and I find that is a reasonable amount of time.

Having found that the tenancy will end for the reasons stated above, I will not explore the other reasons for ending the tenancy.

I decline to award the Landlord recovery of the filing fee. The Landlord's Application was not necessary because of the provisions of Section 55(1) of the Act, which states:

**55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, **the director must grant to the landlord an order of possession of the rental unit if****

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) **the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.**

[reproduced as written, my emphasis added]

### **Conclusion**

The Tenant's application to cancel the Notice to End Tenancy is dismissed.

Further to the provisions of Section 55(1) of the Act, the Landlord is hereby provided with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in 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 *Residential Tenancy Act*.

Dated: October 25, 2016

---

Residential Tenancy Branch

