



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 583230 BC Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **CNC, FFT**

### **Introduction**

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the "1 Month Notice") pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

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

Should the 1 Month Notice be cancelled? If not is the landlord entitled to an Order of Possession?

Are the tenants entitled to recover the filing fee from the landlord?

### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. The tenants have been occupants of the rental building since 2017, occupying other suites in the building. This fixed-term tenancy began on August 1, 2020. The monthly rent is \$1,700.00 payable on the first of each month. A security deposit of \$850.00 and pet damage deposit of \$850.00 were paid at the start of the tenancy and are still held by the landlord. The rental unit is a suite in a multi-unit building with 12 units.

There was an incident on the morning of April 1, 2021 involving the tenants, the caretaker, and another occupant of the building. The landlord submits that the incident involved verbally berating and insulting the caretaker with the tenants and the other occupant acting in an aggressive and hostile manner. The caretaker reported the incident to the landlord's agent and expressed concern for their personal safety. The caretaker also reported the incident to the local authorities.

The parties agree that the incident arose from the caretaker issuing warnings to the tenants regarding cleaning up after their dog. The tenant AW testified that they were upset by what they believed to be false accusations. The tenants focused much of their submissions on their conduct as pet owners and how they consistently clean up after their dog. The tenants characterize the conduct of the landlord's agents to be targeted harassment.

The tenants submit that AW was initially confronted by the caretaker outside of the rental building regarding the need to mind their dog. The tenant NA came out of the rental building to join the interaction along with a family member who is another occupant of the building. The tenants submit that it was the other occupant who was acting in an aggressive and hostile manner and they were not party to the yelling and belittling of the caretaker.

The tenants submitted a video recording into evidence which shows the tenant AW yelling at the caretaker and accusing them of harassment while waving a bag of dog feces.

The caretaker testified that the interaction with the tenants and the other occupant left them fearful for their safety and extremely uncomfortable remaining on the rental property. They reported the incident to the landlord's agent and considered leaving their employment as they did not feel safe working on the rental property.

The landlord's agent testified that they issued the 1 Month Notice dated April 15, 2021 based on the caretaker's report of the incident and reviewing the information. A copy of the 1 Month Notice was submitted into evidence. The notice provides the reasons for ending the tenancy are:

*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 provides in the details of the cause that the notice is issued due to the incident between the tenants and the caretaker.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The tenants confirmed receipt of the 1 Month Notice on April 19, 2021 and filed their application for dispute resolution on April 23, 2021. Accordingly, I find that the tenants were within the statutory time limit to dispute the 1 Month Notice.

When a tenant files an application to dispute the notice, the landlord bears the burden to prove, on a balance of probabilities, the grounds for the 1 Month Notice. The landlord must show on a balance of probabilities, which is to say it is more likely than not, that the tenancy should be ended for the reasons identified in the 1 Month Notice.

In the present case the landlord must demonstrate that the tenants have 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 or have put the landlord's property at significant risk.

The landlord testified that the main reason for the issuance of the notice is the interaction on April 1, 2021 where the tenants yelled at, berated and frightened the caretaker.

I am satisfied on a balance of probabilities that there is a basis for the issuance of the notice and for this tenancy to end. While the tenants submit that they were not the ones who were acting in a hostile manner to the caretaker, their own video evidence shows them shouting at the caretaker in a hostile and aggressive manner.

I find the testimony of the caretaker to be cogent, reasonable and consistent in recalling the interaction on that date. I accept that the tenants were each speaking to the caretaker with raised voices and hostile vocabulary. I further accept that the tenants' family member, another occupant of the rental building, joined them and berated the caretaker. I do not find the suggestion that the tenants were not active participants in the verbal assault on the caretaker to be believable or supported in the materials.

I do not find the tenants' submissions complaining about the previous conduct of the landlord or their agents to be convincing or a reasonable justification for the verbal assault and berating of the caretaker. It is the responsibility of the landlord to enforce tenancy rules and issue warnings or notifications when complaints are received by other occupants of the building. I find little evidence to support the tenant's submission that the manner in which the landlord performed their duties is reasonably characterized as harassment.

In any event I find the tenant's conduct to be a wholly disproportional response and behaviour that is both unreasonable and causes serious jeopardy to the landlord's agent who feared for their personal safety.

I accept the evidence that the tenants verbally attacked the caretaker; yelling, threatening, and berating them. I am satisfied with the evidence including the testimony of the parties and the video recording submitted by the tenant that the verbal assault is attributable to the tenants and not solely the work of the other occupant of the rental building. While other individuals may have been involved in the incident, I am satisfied on a balance of probabilities that the tenants were a driving force in the verbal assault and confrontation with the landlord's agent. I find that the verbal attack caused

significant interference with and unreasonable disturbance of the landlord's agent and caused serious jeopardy to the mental health and safety of the landlord's agent.

Based on the totality of the evidence I am satisfied that there is sufficient basis for the issuance of the 1 Month Notice and accordingly dismiss the tenants' application to cancel the notice.

I find that the 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is signed and dated by the landlord's agent, identifies the parties, the rental address and provides the reason for the tenancy to end. Accordingly, I issue an Order of Possession in the landlord's favour. As the effective date of the 1 Month Notice has passed, I issue an Order effective 2 days after service.

### Conclusion

The tenant's application is dismissed in its entirety without leave to reapply.

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 27, 2021

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Residential Tenancy Branch