



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

Page: 1

## **DECISION**

Dispute Codes      CNC OLC

### Introduction

The Tenant seeks an order cancelling a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 47 of the *Residential Tenancy Act* (the “Act”).

The Tenant seeks an order that the Landlord comply with the Act, the regulations, or the tenancy agreement pursuant to section 62 of the Act.

### Issues

1. Is the Tenant entitled to an order cancelling the Notice?
2. Is the Tenant entitled to an order that the Landlord comply with the Act, the regulations, or the tenancy agreement?

### Evidence and Analysis

On November 29, 2022 the Landlord served the Notice upon the Tenant. The Notice was served because, as stated on page two of the Notice, the Tenant “significantly interfered with or unreasonably disturbed another occupant or the landlord.” The details of the event are that “The tenant has yelled and used abusive language towards the caretakers on more than one occasion.”

The Landlord’s representatives testified under oath that there were two incidents leading to the Notice being issued. The first incident occurred about a month before the Notice was given. The Tenant purportedly yelled at two of the Landlord’s caretakers in the property complex. They used abusive language. The second incident occurred the day before the Landlord gave the Notice.

On this occasion, the Landlord sent its caretakers to the rental unit to pick up a broken fridge. The Tenant yelled at one or more of the caretakers and slammed the door in their faces. The Landlord called one witness who testified under oath about the door slamming incident.

The Tenant testified under oath that they were frustrated with the Landlord's lack of getting the heat fixed in the rental unit. When the Tenant saw the caretakers, they were frustrated and spoke to them about doing something with the heating problem. However, the Tenant denies ever yelling at them or using abusive language.

As for the second incident, the Tenant explained that when the three caretakers attended to the rental unit, they were frustrated and the Tenant and one of the caretakers got into a yelling match. After the caretakers left, the Tenant then slammed the door out of anger.

### **Is the Tenant entitled to an order cancelling the Notice?**

When a tenant disputes a notice to end a tenancy, the landlord bears the onus of proving the reason for issuing the notice. The standard of proof is on a "balance of probabilities," which means that it is more likely than not that the facts occurred as claimed, and which form the basis on which a notice was given.

The Notice was issued under section 47(1)(d)(i) of the Act on the basis that the Tenant "significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property." Neither caretaker testified that at the hearing about the first incident, which occurred a full month before the Landlord issued the Notice. I am not persuaded that the Landlord has proven a significant interference or that the caretakers were *unreasonably* disturbed. The Landlord's evidence is uncorroborated third party hearsay, and I place little weight on the Landlord's testimony.

As for the second incident, while the Tenant may or may not have slammed the door in the faces of the caretakers, I am not prepared to end this tenancy because of a one-time incident. The caretakers were not injured, and one of the caretakers appears to have been as responsible for participating in the yelling match as the Tenant.

Taking into careful consideration all of the evidence before me, it is my finding that the Landlord has not, on a balance of probabilities, proven a section 47(1)(d)(i) ground for issuing the Notice. Therefore, the Tenant is entitled to an order cancelling the Notice.

The One Month Notice to End Tenancy for Cause served on November 29, 2022 is cancelled effective immediately. The tenancy shall continue until it is ended in accordance with the Act.

**Is the Tenant entitled to an order that the Landlord comply with the Act, the regulations, or the tenancy agreement?**

In respect of this claim for relief, the Tenant explained that they sought an order requiring the Landlord to provide 24 hour notice before attending to, or entering, the rental unit. The Tenant testified that, while the Landlord's caretakers are busy, they would appreciate the Landlord's staff not just showing up unannounced. Or, showing up at inopportune and inconvenient times.

While it is not lost on me that it can be rather inconvenient for a tenant for a landlord's caretakers or employees to show up unannounced, there is nothing in the Act which prohibits this. Certainly, if a landlord or their staff showed up in the middle of night or came knocking several times a week, that a tenant's right to quiet enjoyment might be breached. But there is no evidence in this dispute that this was the case. Nor is there evidence that the Landlord or their staff were unlawfully entering the rental unit.

The parties should refer to section 29 of the Act. This section sets out a landlord's legal obligations about entering a rental unit.

Taking into consideration all of the evidence before me, I find that there is no basis upon which an order for Landlord compliance, specifically with attending to or entering the rental unit, ought to be issued. This aspect of the Tenant's application is thus dismissed.

Conclusion

The application is granted, in respect of the Notice.

The application is dismissed, without leave to reapply, in respect of the request for an order of compliance.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: April 15, 2023

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Residential Tenancy Branch