



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: CNC

## Introduction

This hearing dealt with an application by the tenant for an order setting aside a notice to end this tenancy. Both parties participated in the hearing and had opportunity to be heard.

## Issue(s) to be Decided

Does the landlord have grounds to end this tenancy?

## Background and Evidence

The tenancy began in November 1, 2007. The rental unit is on the ground floor of a building with approximately 50 suites. The building is a secured building, accessible only by a key or by calling suites through an intercom system with occupants having the ability to permit access to those using the intercom. The building is a senior's residence and is currently undergoing repairs to the building envelope with a large part of the area around the building being barricaded as an area which only construction workers wearing appropriate safety equipment such as hardhats are permitted to access. The parties agreed that the notice to end tenancy was received by the tenant on or about August 30, 2008. The notice to end tenancy alleges that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, has put the landlord's property at significant risk and that the tenant has breached a material term of the tenancy agreement.

The landlord testified that since February of 2008 there has been a series of issues arising with the tenant's guests. The parties agreed that the tenant's daughter struggles

with drug addiction. The landlord testified that the tenant's daughter has repeatedly entered the building and caused excessive noise, and generally loudly used profanity directed at other occupants. The landlord further testified that on one occasion the daughter disconnected the smoke alarm in the rental unit. The landlord further testified that the daughter and possibly others with her have on several occasions pushed intercom call buttons randomly in order to find a tenant who will give them access and has also pushed behind other occupants as they entered the secured building. The landlord testified that the tenant has occasionally granted his daughter access to the building and when he has refused to permit his daughter to access the building, the daughter has stood at the front door and yelled for her father to let her in or attempted to gain access through another means. On several occasions the daughter or her friends have scaled the barricades and accessed the rental unit by going across the construction area and entering through the unit's sliding glass door. The landlord's witnesses testified that there have been numerous complaints about the daughter's activity and that the tenants are fearful of her.

The tenant testified that he has tried to deny his daughter access to the building, but when he does so, she creates such a disturbance at the front door that he admits her to prevent her from disturbing other occupants. The tenant expressed frustration that he is unable to control the actions of his daughter and that the landlord complains if he admits his daughter to the building and also complains if he does not admit her and leaves her to create a disturbance at the front door. The tenant denied that his daughter's actions were as egregious as described by the landlord and further denied that his daughter's friends had been in the building. The tenant suggested that other occupants in the building knew and had a relationship with his daughter, but could not identify who those occupants were other than to identify a tenant who moved out of the building approximately 5 months ago. The tenant testified that he has limited his daughter's stay in the building to staying long enough to shower, change clothes and eat. The tenant acknowledged that he has on occasion left his daughter unattended in the rental unit.

### Analysis

In order to be successful in this application, the landlord must prove that the tenant or

his guest has significantly interfered with or unreasonably disturbed another occupant or the landlord, has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, has put the landlord's property at significant risk or that the tenant has breached a material term of the tenancy agreement. Having reviewed the evidence and testimony of the parties and the landlord's witness, I find that the actions of the tenant's guest have unreasonably disturbed other occupants and find that the landlord has established grounds to end the tenancy. While I appreciate that the tenant himself has not engaged in inappropriate behaviour, the tenant is responsible for the actions of his guests, whether they are in the rental unit, in the common areas or on the grounds of the residential property.

### Conclusion

The tenant's claim to set aside the notice to end tenancy has been dismissed. At the hearing the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55, upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

At the hearing the tenant asked that if an order of possession were granted, that it be made effective November 30 as the tenant was undergoing surgery for broken ribs at the beginning of November. I find the tenant's request to be reasonable and find that November 30 is an appropriate date to end the tenancy.

Dated October 16, 2008.