

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenants and the landlord's agent.

### Issues(s) to be Decided

The issue to be decided is whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to sections 47 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenant submitted the following documents into evidence:

- A copy of a 1 Month Notice to End Tenancy for Cause dated either December 1, 2009 or January 1, 2010 with an effective vacancy date of January 31, 2010 citing non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order;
- A copy of a letter to the landlord from the local municipal building department dated December 17, 2009 advising the landlord he must end the occupancy of the lower floor as a separate dwelling;
- A copy of a letter to the landlord from the local municipal building department dated January 27, 2010 reiterating, in part, "the Building Department has no objections to the existing single family occupancy of the main floor of the dwelling".

The landlord's agent confirmed that the notice was issued on January 1, 2010 and was served on the tenants on January 11, 2010. The agent testified that because he has to end the tenancy for the rental unit in the basement he cannot afford to continue the tenancy for the main floor and this results from the order from the local building department.

### Analysis

Section 47 of the Act states a landlord may end a tenancy if the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority. This section also allows the landlord to end a tenancy if the

tenant has not complied with an order of the director (of Residential Tenancy Branch) within 30 days of receiving the order or the date specified in the order.

The landlord was issued an order from the municipal government authority that requires the rental unit in the basement of the house to be vacated. These tenants live in the main floor rental unit and are therefore not required to vacate based on that order. The landlord did not cite this as the reason to end the tenancy on the Notice.

As well, the landlord issued the notice citing the tenancy needed to end because the tenant failed to comply with an order of the director. There has been no such order granted that would require the tenant to vacate.

### Conclusion

I grant the tenant's application to cancel the 1 Month Notice to End Tenancy for Cause issued on January 1, 2010. I find the tenancy to remain in full force and effect.

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: March 05, 2010.

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Dispute Resolution Officer