

**Dispute Codes:** CNL, FF

## **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy and to recover the filing fee. Both parties attended the hearing and had opportunity to be heard. At the hearing the landlord made an oral request for an order of possession in the event that the tenant's application was not successful.

## **Issue to be Decided**

Does the landlord have grounds to end this tenancy?

## **Background and Evidence**

The tenancy began on December 01, 2009. The rent is \$750.00 due on the first of the month. The building contains two units side by side. The tenant occupies one and the other is occupied by the landlord. The suites share a common hallway.

The landlord stated that the tenant moved in with a nominal amount of belongings but continued to move stuff in every night. The landlord noticed a hoarding type situation going on and an odor filling the common hallway. In addition bugs started coming into the landlord's suite.

The landlord stated that he served the tenant with a notice to end tenancy for landlord's use because he did not want to confront the tenant with the hoarding situation. He served this notice on August 04, 2010.

In early September, the police visited the unit along with social workers to investigate the living conditions in order to determine whether the unit was suitable accommodation for the tenant's ten year old son. The landlord gave them access to the unit. The landlord took photographs and a video recording of the condition of the unit.

The photographs indicate a huge amount of belongings stored inside the unit making it impossible to walk through. Rotting food was also found and there was a bad odour in the unit.

The landlord served the tenant with a one month notice to end tenancy for cause on September 05, 2010. The landlord stated that the tenant uttered threats of physical harm and also caused noise disturbances by having her radio and television on 24 hours a day.

The tenant stated that the excess amount of belongings was due to downsizing and that she was in the process of having them boxed to be donated to charity. The tenant denied having the radio and the television on all day.

During the hearing the tenant informed me that she would move out by October 31, 2010. The landlord agreed to let the tenancy continue until then on condition that the tenant did not cause any noise or peace disturbances.

### **Analysis**

The tenant agreed to move out and therefore has accepted that the tenancy will end as per the notice to end tenancy for cause. Therefore the notice to end tenancy for cause is upheld and the tenancy will end on October 31, 2010.

The landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), 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.

Since the tenant has agreed to move out and is no longer disputing the notice to end tenancy, she must bear the cost of filing this application

**Conclusion**

The notice to end tenancy is upheld and I grant the landlord an order of possession effective on or before **1:00 p.m. on October 31, 2010**. The tenant must bear the cost of filing this application.

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: September 27, 2010.

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Dispute Resolution Officer