



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenants to cancel a 1 month notice to end tenancy for cause. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

### Summary of Background and Evidence

On March 25, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that since January 2011 the tenant has, without the landlord's authorization, been using 3 and sometimes up to 6 parking stalls in the underground parking to store miscellaneous items and scrap metal. The landlord stated that while the tenant is supposed to be removing items, more items are being brought in instead. The landlord stated that other tenants have complained about the items being stored in the underground parking and that these cast off items are a potentially danger to other tenants in the building.

On March 24, 2011 when inspecting the underground parking a tenant directed the landlord to a blue tarp the tenant had set up around his trailer. When checking behind the blue tarp the landlord observed 3 window screens covered with marijuana that was being dried. The landlord contacted the tenant regarding the marijuana and shortly after their discussion the tenant went to the underground parking and the marijuana was removed. The tenant first told the landlord that he had a medical marijuana prescription but after he could not produce a medical prescription, he told the landlord the marijuana was for his personal use and 'nobody's business but his own'.

The landlord stated that she has had numerous complaints about the tenants and the tenant's friends parking in the playground area and parking in front of the fire hydrant.

The landlord stated that on one occasion she had entered the tenant's rental unit without giving prior notice as neighbouring tenants had complained of a strong chemical smell coming from the unit. The landlord stated that she attended the unit with the police who conducted a search of the rental unit, no chemicals were found.

The landlord advised the tenants in writing on March 7, 2011 and again on March 17, 2011 to get the parking spaces cleaned up and to not park in front of the fire hydrant.

The landlord per Section 55 (1) (a) of the *Act* has requested an order of possession for April 30, 2011 which is the end of tenancy date on the notice.

The tenant stated that the landlord knew he had items stored in the underground parking spaces and that he had been delayed in removing them and cleaning the area up due to being injured in an accident in February of 2011. The tenant did not comment when the landlord noted that the tenant could seemingly bring more items in to the underground parking but could not remove items. The tenant stated that he had cleaned up a significant amount of the items that were in the parking spaces and requested that the landlord meet him to inspect the area.

The tenant testified that the marijuana was not his and that it belonged to someone else who had access to the underground parking. The tenant stated that he only told the landlord the marijuana was his because it was in with his belongings and that he wanted to 'man up' because someone had to be responsible for it. Both tenants emphatically stated that they do not do drugs and would never jeopardize their tenancy by bringing drugs on to the property.

The tenant requested to have the order of possession set aside and in this hearing the tenant and landlord agreed to meet and discuss the matter.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds to have the notice to end tenancy for cause upheld and are entitled to an order of possession. The tenant has put other tenants in the building at risk with the unpermitted accumulation of items in the underground parking. The tenants have also put the building and other tenants at risk by continually parking in front of the fire hydrant effectively blocking access to emergency vehicles.

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on April 30, 2011 at 1:00 PM.

Conclusion

The landlord's notice to end tenancy for cause dated March 25, 2011 is upheld with the resulting effect that the tenancy will end on April 30, 2011 at 1:00 PM.

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, April 30, 2011**. This Order must be served on the tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: April 28, 2010

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Residential Tenancy Branch