



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      CNC

### Introduction

This matter dealt with an application by the Tenant to cancel a One Month Notice to End Tenancy for Cause dated March 17, 2011.

### Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started approximately 20 years ago. Three years ago the parties entered into a written tenancy agreement. Rent is \$1,750.00 per month which is due in advance on the 1<sup>st</sup> day of each month. On March 17, 2011, the Landlord served the Tenant in person with a One Month Notice to End Tenancy for Cause dated March 17, 2011. The grounds stated on the Notice were as follows:

- The Tenant is repeatedly late paying rent;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so; and
- The Tenant has assigned or sublet the rental unit without the Landlord's written consent.

The Landlord claimed that the Tenant has made the following late rent payments:

1. February 2010 rent: The Tenant paid rent by way of a cheque for \$900.00 and cash of \$850.00 on February 4, 2010;
2. March 2010 rent: The Tenant paid \$1,750.00 on March 5, 2010;
3. October 2010 rent: The Tenant made a partial payment of \$400.00 by cheque on October 16, 2010 which was returned for non-sufficient funds;
4. March 2011 rent: The Tenant paid \$1,500.00 on March 10, 2011 and \$250.00 on March 17, 2011.

The Landlord also claimed that the Tenant has stored an unreasonable number of vehicles, furniture, appliances and a variety of other articles on the rental property (and under the deck of the rental unit) with the result that it is both an eye sore and a fire hazard. The Landlord said this problem was first brought to his attention in 2002 and at that time he helped the Tenant to remove a substantial amount of articles from the property. The Landlord said the problem persisted and in 2008, he helped the Tenant remove a further 3 commercial garbage bins of articles from the property. It was at this time the Landlord said he asked the Tenant to sign a tenancy agreement which contained a term that the Tenant would keep the property clean and tidy.

The Landlord said the property is now as bad or in worse condition as it was in 2008. The Landlord provided photographs of the articles stored on the rental property. The Landlord admitted that he has not given the Tenant a written notice to clean up the property at this time but said he has asked the Tenant repeatedly to do so. The Landlord further claimed that the Tenant sublet the basement floor of the rental unit without his written consent.

The Tenant did not dispute that he was late paying rent as alleged by the Landlord or that he had allowed the rental property to become cluttered with an unreasonable amount of items. The Tenant argued however, that his subtenant has resided in the rental property since approximately 2006 and that the Landlord was aware of his subtenant when he signed the tenancy agreement in 2008.

### Analysis

RTB Policy Guideline #38 says that “three late payments are the minimum number sufficient to justify a notice under these provisions.” Based on the evidence of both parties, I find that the Tenant has been late paying rent on at least 3 occasions in the past 14 month period. Consequently, I find that there are grounds for the One Month Notice to End Tenancy for Cause dated March 17, 2011 and the Tenant’s application to cancel it is dismissed without leave to reapply.

As the Landlord only needs to prove one of the grounds on the One Month Notice to have it upheld, I find that there is no need to deal with the remaining 2 grounds. The Landlord requested and I find that he is entitled pursuant to s. 55(1) of the Act to an Order of Possession to take effect on April 30, 2011 (the effective date of the Notice).

### Conclusion

The Tenant’s application to cancel the One Month Notice to End Tenancy for Cause is dismissed without leave to reapply. An Order of Possession to take effect on April 30, 2011 has been issued to the Landlord. A copy of the Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

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 21, 2011.

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Residential Tenancy Branch