



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, OPC, FF

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy that was given for cause, and request for recovery of their filing fee.

The tenant's application is a request for an order cancelling a Notice to End Tenancy that was given for cause and a request for recovery of it his filing fee.

### Background and Evidence

On August 9, 2011 the tenant was served with a one month Notice to End Tenancy which had the following reason checked off:

"Rental unit must be vacated to comply with a government order"

The landlord testified that:

- They received a letter from the City of Surrey that stated that secondary suites are not allowed on the property and stated that the illegal dwelling must be removed.
- To comply with his order they have given a Notice to End Tenancy to this tenant.
- The order from the City of Surrey states that they will be conducting a follow-up inspection on October 4, 2011 and therefore they have given a Notice to End Tenancy for September 30, 2011 to comply with the order.
- They are therefore requesting an Order of Possession for September 30, 2011, and an order for recovery of their filing fee.

The tenant testified that:

- The City of Surrey did do an investigation of the rental property and have ordered that the secondary suite be removed, however because of all the problems caused by the other tenant they just assumed it was the other tenant that would be evicted.
- They have spoken with the City of Surrey and have been informed that the City of Surrey is certainly not going to force them out of the rental unit if the Residential Tenancy Branch gives them more time to vacate.
- They really do not want to vacate however if they must do so they request more time as they have been unable to find suitable accommodation.
- He therefore asks that this Notice to End Tenancy be cancelled and requests recovery of his filing fee

### Analysis

I have reviewed all the evidence submitted by the parties and in particular the letter from the City of Surrey legal services bylaw and licensing section, and it is my finding that the City of Surrey has not ordered that the rental unit be vacated, they have ordered the following:

The illegal dwelling unit(s) must be removed, which requires the following alterations:

- All cooking facilities must be removed and any openings for these facilities must be wall boarded over.
- The electrical breaker controlling the range receptacle must be removed and its spot blanked on the electrical panel.

The order says nothing about having the tenants vacate the unit.

### Conclusion

### Tenant's application

I hereby ordered that the Section 47 Notice to End Tenancy dated August 9, 2011 is hereby cancelled and this tenancy continues.

I further order that the landlord bear the cost of the filing fee paid by the tenant, and therefore the tenant may make a one-time deduction of \$50.00 from future rent payable to the landlord.

Landlord's application

The landlord's application is dismissed in full without leave to reapply.

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 19, 2011.

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Residential Tenancy Branch