



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP and CNC

### Introduction

This application was brought by the tenant on September 26, 2011 and amended with respect to style of cause on October 12, 2011 and October 14, 2011. The tenant sought an order for repair to the rental unit but did not select the option to cancel a Notice to End Tenancy for cause dated September 13, 2011 which, after correction to the end date, would have concluded the tenancy on October 31, 2011.

At the commencement of the hearing, the tenant's advocate advised that the tenant had intended to contest the Notice to End Tenancy and, with consent of the landlord, I exercised the discretion granted under section 64(3)(c) of the *Act* to amend the application to include a request to cancel the notice.

In addition, while the tenant had named the property manager in person as respondent, in fact the landlord's agent is the property manager's corporate employer. Therefore, I have amended the style of cause accordingly.

### Issue(s) to be Decided

This matter requires a decision on whether the Notice to End Tenancy should be set aside or upheld, and whether an order for repair is warranted.

### Background and Evidence

This tenancy began on January 12, 2010. Rent is \$575 per month and the landlord holds a security deposit of \$287.50 paid on January 19, 2010.

During the hearing, the landlord's agent gave evidence that though the tenancy had run smoothly for the first year, the Notice to End Tenancy of September 26, 2011 had been served following a series of concerns beginning on February 8, 2011 when, after receiving complaints, the agent wrote to the tenant to caution that smoking in the rental unit was prohibited.

The tenant stated that she had not smoked in the rental unit, but that occasionally a neighbour sought her company to smoke marijuana or cigarettes which she declined.

The agent gave further evidence that police had been called to the rental unit on August 5, 2011 to deal with a domestic dispute and that there had been a similar incident on August 18, 2011.

The tenant stated that she had called police to deal with a gentleman friend who had stayed with her occasionally. She stated both disturbances had resulted from his refusal to leave, the second when his efforts to reunite after drug rehabilitation were rebuffed.

The agent sent the tenant another letter on September 8, 2011 regarding reports of smoking and drug use in the rental unit and cautioned that further incidents would result in a notice to end the tenancy.

The agent stated the notice followed yet another disturbance on September 15, 2011 when another tenant reported that she had been disturbed and felt threatened by an outburst from the subject tenant. The tenant acknowledged that she had been very loud but that, due to a problem with the bathroom lighting, she had fallen and was reacting verbally to the pain and frustration of problems with the bathroom light.

The landlord stated that he had lost one tenant who had left after two months, stating that disturbances from the subject tenant had made her tenancy untenable. The landlord also cited one instance in which a service provider had been denied access to the rental unit even after she had been served with 24-hour notice.

### Analysis

Section 47 of the *Act* permits a landlord to issue a Notice to End Tenancy for cause under circumstances in which the conduct of the tenant or a person permitted on the rental property has significantly interfered with or unreasonably disturbed another occupant or the landlord.

I find that the tenant had done so to a degree and frequency that warranted the Notice to End Tenancy of September 13, 2011 and I declined to set it aside.

On hearing that determination, the landlord requested an Order of Possession under section 55(1) of the *Act* which compels the issuance of the order when a tenant's application to set aside such notice is dismissed and/or the notice is upheld.

The landlord made promise that he would not enforce the order for an effective date before November 30, 2011, provided that the tenant paid the November rent which was outstanding at the time of the hearing, and provided there are no further disturbances in the interim.

The tenant's advocate stated that she would assist the tenant in dealing with the ministry to see to immediate payment of the rent. The tenant stated she would do everything in her power to assure no further disturbances to the landlord or other tenants.

As the end of the tenancy is imminent, I find no necessity for orders for repairs.

### Conclusion

The landlord's copy of this Decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant, with promise that it will not be enforced before November 30, 2011 subject to the conditions specified herein.

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: November 04, 2011.

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Residential Tenancy Branch