



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause. The tenant/applicant failed to join the conference call hearing. The landlord/respondent attended.

### Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

### Background and Evidence

On December 13, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

The tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord testified that they have received numerous written complaints from other tenants in the building about the noise and partying that goes on in the tenant's rental unit. Tenants have written to the landlord stating that the tenant's guests are often very intoxicated, loud, abusive and threatening and have been observed on numerous occasions passing out, vomiting and urinating on the front lawn. Tenants state that they have also had these guests of the tenants coming to their apartment door asking for cigarettes, rides and alcohol. The landlord stated that the tenants have noted the noise and partying going on from late in the evening until early into the next morning and often for days at a time.

The landlord stated that on December 24, 2011 the police attended the rental unit on a number of occasions ultimately removing some of the tenant's guests from the premises. The landlord stated that the disturbances continue to take place daily and that

one tenant in the building has given the landlord notice to vacate because of the on-going disturbances.

The landlord stated that the tenant was been issued 1 month notices to end tenancy for cause on May 31, 2011 and July 19, 2011 for the same issues however the tenant and tenant's guests continue to cause significant problems at the rental property.

The landlord per section 55 of the Residential Tenancy Act verbally requested an order of possession for the rental unit effective January 31, 2011 which is the corrected end of tenancy date for the notice.

### Analysis

Based on the documentary evidence and undisputed testimony of the landlord and as the tenant did not attend the hearing, I find on a balance of probabilities that the tenant has not met the burden of proving that they have grounds to have the 1 Month Notice to End Tenancy dated December 13, 2011 set aside.

Testimony and evidence has established that the behavior of the residents and guests of the tenant have on numerous occasions, significantly interfered with, unreasonably disturbed and seriously jeopardized the health or safety or lawful right of other tenants in the building and that the tenant has not taken steps to stop this behaviour even after being served a 3<sup>rd</sup> notice to end tenancy for cause.

The tenant and her guests have continually and continue to create disturbances at the rental unit and significant consideration must be given to the multiple complaints from other tenants in the building about the behavior of guests in the tenant's rental unit, attendance by the police being required due to a disturbance at the tenant's rental unit and the issuance of 2 previous notices to end tenancy for the same issue. It is also notable that one tenant has not given the landlord a notice to vacate due to the on-going disturbances created by the tenant and her guests.

The landlord has verbally requested an order of possession for the rental unit effective January 31, 2011 at 1:00PM and this request is granted.

Residential Tenancy Policy Guideline **6. Right to Quiet Enjoyment** speaks to:

*This guideline deals with a tenant's entitlement to quiet enjoyment of the property that is the subject of a tenancy agreement. At common law, the covenant of quiet enjoyment "promises that the tenant . . . shall enjoy the possession and use of the premises in peace and without disturbance. In connection with the landlord-tenant relationship, the covenant of quiet enjoyment protects the tenant's right to freedom from serious interferences with his or her tenancy. A landlord does not have a reciprocal right to quiet enjoyment.*

**Basis for a finding of breach of quiet enjoyment** speaks to:

*Frequent and ongoing interference by the landlord, or, if preventable by the landlord and he stands idly by while others engage in such conduct, may form a basis for a claim of a breach of the covenant of quiet enjoyment. Such interference might include serious examples of: · entering the rental premises frequently, or without notice or permission;*

- unreasonable and ongoing noise;*
- persecution and intimidation;*

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on January 31, 2012 at 1:00 PM.

### Conclusion

**The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on January 31, 2012 at 1:00 PM.**

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, January 31, 2012**. This Order must be served on the tenant(s) 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: January 5, 2012

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Residential Tenancy Branch