



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, AAT and FF

### Introduction

This hearing was convened on the tenant's application to have set aside a Notice to End Tenancy for cause, dated March 1, 2012 and setting an end of tenancy date of March 31, 2012.

The tenant stated that the notice had been posted on her door on March 20, 2012 and the landlord claimed service on March 1, 2012.

In either case, section 47(2) of the *Act* provides that a Notice to End Tenancy a notice must be served to take effect at the end of the rental period following service. In the present matter, notice served on any day in March has an effective end of tenancy date of April 30, 2012.

Such errors are automatically corrected by section 53(2) of the *Act*.

The tenant also sought an order for return of the security deposit, but that legislation does not permit me to consider such a request until the tenancy has ended.

The tenant also sought an order allowing access to the rental unit for the tenant or her guests.

### 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 tenant/guest access is warranted.

### Background and Evidence

There is no written rental agreement, but the parties gave evidence that this tenancy began in September or October 2011. Rent is \$900 per month and the landlord holds a security deposit of \$450 paid at the beginning of the tenancy. The rental unit is a basement suite in the home in which the upper floor is occupied by the landlord.

The cause cited in the Notice to End Tenancy alleges illegal activity that adversely affects the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

During the hearing, the landlord stated that at the time he served notice, there had been a number of police calls to the rental unit and he submitted police file numbers for four of the calls made in the previous two months.

The tenant stated that the calls were related to domestic violence on the part of her partner who she said is currently under a restraining order and barred from the rental property. The landlord stated that the tenant continues to associate with her partner and her continuing presence on the property has caused him concern for the safety and well-being of his children.

The landlord also stated that the tenant had refused to clean up after her pets.

### Analysis

Section 47(1)(e) of the *Act* provides that a landlord may issue a Notice to End Tenancy for cause in circumstances in which:

“the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property,”

In the present circumstances, I find that the tenant has breached section 47(1)(e)(ii) of the *Act* in permitting the return of her male partner to the rental unit after repeated incidents of domestic violence.

Therefore, I find that the Notice to End Tenancy was lawful and valid and I declined to set it aside.

The landlord requested, and I find he is entitled to an Order of Possession in support of the Notice to End Tenancy with the corrected end of tenancy date.

As the end of the tenancy is imminent, I find it is not necessary that I make an order with respect to access to the rental unit but I do remind the landlord that section 30 of the *Act* provides that the landlord must not unreasonably restrict access to the rental unit by the tenant or her guests.

### Conclusion

The landlords' copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on April 30, 2012.

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 12, 2012.

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Residential Tenancy Branch