

## **DECISION**

Dispute Codes      MT, CNE, CNC, OLC, RP, FF

### Introduction

This is an application filed by the Tenant to be allowed more time to make an application to cancel a notice to end tenancy and if allowed to cancel a notice to end tenancy issued because the Tenant's employment with the Landlord has ended and the Landlord has cause to the tenancy. The Tenant also seeks an order for the Landlord to comply with the Act, regulation or Tenancy Agreement, to make repairs to the unit, site or property and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have confirmed receipt of the submitted evidence of the other party, I am satisfied that both parties have been properly served.

It was clarified at the beginning of the hearing that the notice to end tenancy was issued and received on August 31, 2012 and that the Tenant filed for dispute resolution on September 4, 2012. As the notice allows for 10 days to file for dispute upon being served the notice, I find that the Tenant does not require more time as they have filed for dispute in 5 days.

It was further clarified that as there is no employment relationship between the two parties, that the Tenant's application to cancel the notice to end tenancy because employment with the Landlord has ended that this portion of the application is withdrawn by the Tenant as it was selected in error.

The Landlord has withdrawn reason number 1 out of 3 in his 1 month notice to end tenancy issued for cause.

The Tenant has withdrawn that portion of her application which seeks an order for the Landlord to comply with the Act, regulation or tenancy agreement as she cannot remember why this was chosen on the application.

The Landlord indicated during the hearing that he wished for the Tenancy to end based upon the notice served. As such, I am satisfied that the Landlord has made an oral request for an order of possession to end the tenancy.

Issue(s) to be Decided

Is the Tenant entitled to an order cancelling the notice to end tenancy issued for cause?  
Is the Landlord entitled to an order of possession?

Background and Evidence

This Tenancy began on July 1, 2012 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$800.00 payable on the 31<sup>st</sup> day of each month. A security deposit of \$400.00 was paid.

Both parties agreed that a 1 month notice to end tenancy signed and dated on August 31, 2012 by the Landlord was served on the Tenant in person on the same date. The Landlord has stated 2 reasons for cause. The stated effective date of the notice is listed as September 31, 2012.

Reason 1) Repeatedly late paying rent, withdrawn by the Landlord.

Reason 2) Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Reason 3) Tenant has caused extraordinary damage to the unit/site or property/park.

The Landlord states that that the rental unit is a duplex with upstairs and downstairs units. The Tenants live in the downstairs and the upstairs by other Tenants. The Landlord states that the upstairs Tenants have complained about threatening behaviour to them by the downstairs Tenants. This consists of falsely made accusations of noise from partying to the city bylaw officers attending to cite the Landlord for an unkept front yard. The Landlord states that he has viewed the property and states that there are no problems with the condition of the yard of the frequency of the upstairs Tenants in maintaining it. The Tenants dispute this. The Landlord has provided a letter from the upstairs Tenants in support. The Landlord has also stated in his direct testimony that because of this letter that he received another letter from the upstairs Tenants

complaining about threats from the downstairs Tenants by way of yelling through the ceiling. The Tenants dispute this, but also stated that the two parties can clearly hear each other as the ceiling/floor separation is thin. The Tenants dispute that any threats have been made.

The Landlord has also stated that the Tenants significantly damaged the heritage home by adding screens to a couple of the windows when they were not allowed. The Tenant states that a letter dated July 19, 2012 was sent to the Landlord as notification that there were issues with the washer /dryer, a request for screens on the windows and the lack of maintenance on the front/back yards. The Landlord confirms receiving this letter and states that he attended the property and after investigating the washer/dryer, found no problems with them. The Landlord also states that screens were not part of the tenancy agreement and that attaching them to the heritage home would be defacing/damaging it. The Landlord also states that he views the front and back yards and they were both in satisfactory condition.

### Analysis

I find based upon the evidence submitted that I prefer the evidence of the Landlord over that of the Tenant. The Tenant has failed to provide sufficient evidence that the claims made by the upstairs tenants were fraudulent. I am satisfied that the Landlord has established a claim for reason number 2 on a balance of probabilities that the upstairs Tenants have been unreasonably disturbed by the downstairs Tenants. This is based upon the Landlord's letter from his upstairs Tenants in support and the lack of evidence provided by the downstairs Tenants. The Tenant's application to cancel the notice to end tenancy for cause is dismissed as the Landlord has established a reason for cause.

The Landlord is granted an order of possession. As the effective date of the notice has expired, the Tenant must be served with a copy of the order of possession the Tenants/Occupants must comply with the order within 2 days of being served. This order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Reason number 3 was not considered in relation to this decision for an order of possession as the Landlord has sufficiently satisfied me of reasons for cause number 2.

The Tenant has failed to provide sufficient evidence of a breach of the Act, regulations of the Tenancy Agreement by the Landlord to make repairs. As the Tenancy is at an end I find that the Tenant's request for repairs is dismissed.

Conclusion

The Tenant's application is dismissed without leave to reapply.  
The Landlord is granted an order of possession.

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: October 09, 2012.

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Residential Tenancy Branch