



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Westsea Construction  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC

### Introduction

The tenants applied under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause (the “Notice”).

The female tenant, an agent for the landlord (the “agent”), two resident managers for the landlords, and a witness for the landlord attended the hearing. At the start of the hearing I introduced myself and the participants. The parties were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony evidence and to make submissions to me.

The tenant confirmed that she received the evidence of the landlord and had the opportunity to review that evidence prior to the hearing. The tenant confirmed that the tenants did not submit evidence as part of their application.

### Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

### Background and Evidence

A month to month tenancy agreement began on October 1, 2010. Monthly rent in the amount of \$700.00 is due on the first day of each month. A security deposit of \$350.00 was paid by the tenants at the start of the tenancy.

The tenant confirmed that she was served on January 28, 2013 with a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”) dated January 28, 2013 alleging three causes. The first cause indicated on the 1 Month Notice is that the tenants have allowed an unreasonable number of occupants in the unit. The second cause indicated on the 1 Month Notice is that the tenants or a person permitted on the property by the tenants

have significantly interfered with or unreasonably disturbed another occupant or the landlord. The third cause indicated on the 1 Month Notice is that the tenants have engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The tenants disputed the notice within 10 days of being served with the 1 Month Notice on February 5, 2013. The effective vacancy date on the 1 Month Notice is listed as February 28, 2013.

The agent called their witness, Constable (Cst.) DS. The witness Cst. DS, testified that he has been a police officer for thirteen years and was a correctional officer for five years before becoming a police officer, and has been a member of the police department's emergency response team for six years. Cst. DS stated that he runs a police department program called "Crime-Free Multi-Housing" and that the landlord approached him to request that the program be implemented in the rental building.

According to Cst. DS, the rental unit has been identified as a unit where the tenants are quite obviously still involved in a lifestyle using narcotics. Cst. DS stated that he attended the rental unit on January 16, 2013 and personally witnessed a glass pipe that is commonly used for using "crystal meth" laying in plain view inside the rental unit.

Cst. DS stated that the rental unit has been known for high traffic for a short time consistent with drug dealing. Cst. DS testified under oath that on January 14, 2012 an individual that was not the tenant but was known to the tenants was arrested in the rental unit and that narcotics were found in the living room of the rental unit including "crystal meth, crack cocaine and marijuana". According to Cst. DS, the illegal drugs were packaged in individual bags which is consistent with drug trafficking in his professional opinion. Cst. DS stated that when that type of activity is occurring in a building, there is a higher risk of violence and thefts and "drug rips" which are targeted thefts of known drug suppliers. Cst. DS indicated that based on the January 14, 2012 incident and his attendance to the rental unit on January 16, 2013, there is no indication that the tenants have changed their lifestyle.

The tenant asked witness, Cst. DS if he asked the tenant what the glass pipe was for during the January 16, 2013 attendance to the rental unit. Cst. DS stated that he spoke to the tenant about what he saw during his attendance to the rental unit. The tenant confirmed during the hearing that she was involved in the prostitution trade but denies conducting her business in the rental unit. Cst. DS stated that on October 27, 2012 the police were called to attend the rental unit due to a client of the female tenant attempting to break down the door of the rental unit. Cst. DS stated that it appears from the police report that there was a noisy argument outside of the rental unit. The female

tenant confirmed that the man at her door was a client of hers and also lived in the rental building; however, he lived in a different rental unit where her services were provided. The tenant did not have further questions for the witness, Cst. DS and the agent did not have any questions to ask witness Cst. DS.

The agent testified that on average over the past four months, the tenants have one to five visitors per night and on average have one to four people entering the rental building at one time. The typical visit to the rental unit of the tenants, according to the agent, ranges between four minutes, ten minutes, eleven minutes, seventeen minutes and twenty-seven minutes, although some visits are longer. The landlord submitted over forty pages of log sheets where visitors to the rental unit are identified and the times of the visits. Most of the times indicated are between midnight and 3:30 a.m.

The agent submitted log sheets from the night patrol officer at the rental building and indicated that the rental building also has an evening professional security guard on site. The tenant stated that people attending the building were lying about who they were visiting and that a drug dealer was living on our floor for a while. The tenant referred to one example in the log sheets provided that stated that one specific visitor may have been attending the rental unit or a unit near the rental unit. The agent testified that there are cameras in the rental building which assist security staff to know which floors guests are going to after entering the building. The tenant stated that the cameras are only on the elevators so they only know the floor the guests are going to.

On January 1, 2013, the agent stated the police attended the rental unit at 12:45 a.m. and left the rental unit at 12:54 a.m. The tenant stated that the reason the police attended was due to the police looking for her brother who she claims was not residing with her. On January 24, 2013, the police attended the rental unit again due to what the agent was advised by the police as a mid-level drug dealer attending the rental unit and two other rental units. The tenant denies that the person mentioned by the agent attended the rental unit.

The agent made a verbal request for an order of possession during the hearing.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**1 Month Notice to End Tenancy for Cause** – The landlord provided a witness, Cst. DS who is a police officer with the local police department. Cst. DS testified under oath that

he has attended the rental unit and has personally witnessed a glass pipe which in his professional experience is used for "crystal meth" in the rental unit on January 16, 2013. In addition, Cst. DS testified that in January 2012, a person was arrested in the rental unit who was known to the tenants and that "crystal meth, crack cocaine and marijuana" were found in the living room of the rental unit.

The agent provided evidence that over the past four months, the tenants have one to five visitors per night and on average have one to four people entering the rental building at one time. The typical visit to the rental unit of the tenants, according to the agent, ranges between four minutes, ten minutes, eleven minutes, seventeen minutes and twenty-seven minutes, although some visits are longer. The landlord submitted over forty pages of log sheets where visitors to the rental unit are identified and the times of the visits. Most of the times indicated are between midnight and 3:30 a.m. The female tenant's response to the high volume of guests was to claim that the guests were lying as to where they were going in the rental building.

The landlord has indicated three reasons in the 1 Month Notice which was disputed by the tenants. The first cause indicated on the 1 Month Notice is that the tenants have allowed an unreasonable number of occupants in the unit. The second cause indicated on the 1 Month Notice is that the tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord. The third cause indicated on the 1 Month Notice is that the tenants have engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

Based on the above and on the balance of probabilities, **I find** that the landlord's have met the burden of proof by proving that the tenants or a person permitted on the property by the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord, and have allowed an unreasonable number of occupants in the rental unit. The tenants did not provide any witnesses or witness statements in support of their position and claim that guests were lying as to which rental unit they were visiting. **I find** the testimony provided by Cst. DS and the agent supports that the tenants have had the police attend on multiple occasions. The female tenant did not dispute that the police have attended on multiple occasions.

Based on the above, **I find** the landlord's 1 Month Notice is valid. **I dismiss** the tenants' application to cancel the Notice and **uphold** the landlord's 1 Month Notice. The agent verbally requested an order of possession during the hearing. Section 55 of the *Act* states:

### Order of possession for the landlord

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) **the landlord makes an oral request for an order of possession, and**

(b) **the director dismisses the tenant's application or upholds the landlord's notice.**

[emphasis added]

Given the above and taking into account the agent's oral request for an order of possession during the hearing, **I find** that the landlord is entitled to an order of possession effective **2 days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that court.

### Conclusion

I dismiss the tenants' application to cancel the 1 Month Notice to End Tenancy for Cause. I uphold the 1 Month Notice issued by the landlord.

I grant the landlord an order of possession effective **2 days** after service on the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: March 01, 2013

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Residential Tenancy Branch

