



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Arno Hotel  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice). Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant confirmed that the landlord handed him the 1 Month Notice on November 8, 2013. The landlord confirmed that the tenant handed him a copy of his dispute resolution hearing package on November 19, 2013. I am satisfied that the parties served one another with these documents in accordance with the *Act*.

At the commencement of the hearing, the landlord made an oral request for an Order of Possession if the tenant's application to cancel the 1 Month Notice were dismissed.

### Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

This periodic tenancy for a room in a single room occupancy hotel began on June 1, 2013. Monthly rent is set at \$450.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$225.00 security deposit paid on or about June 1, 2013.

The landlord entered into written evidence a copy of his 1 Month Notice, requiring the tenant to end this tenancy by December 31, 2013. The landlord's 1 Month Notice cited the following reasons for seeking an end to this tenancy for cause:

*Tenant or a person permitted on the property by 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;*
- *put the landlord's property at significant risk.*

*Tenant has 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;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

At the hearing, the landlord testified that he was unaware of any proven illegal activity that the tenant has been undertaking at the rental unit. The landlord asked that this tenancy be ended for the first three of the reasons outlined above, rather than on the basis of latter two reasons.

During the course of this hearing, the tenant said that he is currently staying at a mental health facility where he is being held for observation. He testified that he anticipates being released from that facility by January 25, 2014, although the decision to release him is not in his control. The tenant also noted that he was calling from the lobby of the Residential Tenancy Branch Office in Burnaby. This information further confirmed that the mental health facility had not placed restrictions on his ability to leave that facility during the daytime hours. The tenant also testified that he was actively attempting to find alternate accommodations, but his ability to do so was somewhat compromised by his current situation.

Despite the above testimony, I found the tenant was very aware of his situation and the details of his application to cancel the 1 Month Notice. The tenant was also fully conversant with the issues under discussion and was able to confirm his understanding of the agreement he reached with the landlord to resolve this dispute.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding resolution of the tenant's application and all issues arising out of this tenancy under the following terms:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on March 15, 2014, by which time the tenant will have vacated the rental unit.

2. The landlord agreed to withdraw the existing 1 Month Notice, which is now cancelled.
3. The tenant agreed that he will not carry any tools or potential weapons with him when he accesses the common areas of this rental building.
4. The landlord agreed that if the tenant abides by the terms of this settlement agreement and vacates the rental unit by 1:00 p.m. on March 15, 2014, that the landlord will pay the tenant \$225.00 by April 1, 2014, in addition to any separate security deposit payment which the tenant is entitled to receive.
5. The landlord committed to retain the tenant's personal possessions for a period of 60 days in the event that the tenant does not return to the rental unit by March 15, 2014 to remove his personal possessions.
6. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues currently under dispute arising out of this tenancy.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order in the event that the tenant does not vacate the premises by 1:00 p.m. on March 15, 2014, as set out in their agreement. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I also order the tenant to refrain from carrying any tools or potential weapons with him when he accesses any area of the building with the exception of his own rental unit. For the sake of clarity, I note that the tenant is allowed to remove these items from the rental unit for the purposes of vacating the rental unit at the end of his tenancy.

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 15, 2014

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Residential Tenancy Branch

