



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC OLC LRE

### Introduction

This hearing dealt with the tenant's application to cancel a notice to end tenancy for cause, as well as for an order that the landlord comply with the Act and an order suspending or setting conditions on the landlord's right to enter the rental unit.

The hearing commenced at the scheduled time of 1:00 p.m., with only the tenant participating at that time. The tenant stated that the landlord had been calling the tenant's parents and coming into the rental unit all the time, once while the tenant was sleeping. The landlord called in to the hearing at approximately seven minutes after the hour. The landlord confirmed that she had received the tenant's application and evidence, and that she did not submit any documentary evidence.

During the hearing the parties confirmed that the tenant had moved out of the rental unit on February 17 or 18, 2014. It was therefore not necessary for me to consider any portion of the application. However, the tenant stated that she still wanted the notice to end tenancy cancelled, because she has been taken off the list for BC Housing. For that reason, I heard evidence and considered whether the landlord could establish a cause for ending the tenancy.

### Issue(s) to be Decided

Should the notice to end tenancy for cause be cancelled?

### Background and Evidence

The parties agreed that on January 20, 2014, the landlord served the tenant with a notice to end tenancy for cause. Neither party submitted a copy of the notice as evidence; however, the landlord stated that the two causes for ending the tenancy, as she indicated on the notice, were (1) that the tenant seriously jeopardized the health or

safety or a lawful right or interest of the landlord; and (2) that the tenant has engaged in illegal activity that 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. The landlord stated that the tenant stole from the landlord's garage, and as a result the landlord could no longer trust the tenant. Later in the hearing the landlord stated that the tenant took 20 large wine bottles and put them in the back of her truck.

The tenant's response was that she had a key to enter the shed, and she went into the shed at night to flip the breaker because the power was out. It was dark and she tripped on the recycling, so she carried a box of bottles out to her car while she looked for a flashlight. She stated she would have replaced the bottles the next morning, but she left the property with the bottles still in her vehicle. The tenant stated that she left the bottles outside the shed for the landlord one to one and a half weeks later. The tenant stated that the landlord called the tenant's parents and said that the tenant had stolen six bottles from the recycling.

### Analysis

I find that the notice to end tenancy for cause is not valid.

While the tenant acknowledged that she removed some bottles from the property for a short time, I cannot find that this minor transgression could possibly be interpreted as seriously jeopardizing the health or safety or a lawful right or interest of the landlord.

Further, while the tenant's removal of the bottles may have amounted to petty theft, with the recycling value of the bottles being negligible, the section of the Act that refers to a tenant's illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property is not applicable to a landlord. A landlord is not an occupant and does not have a right to quiet enjoyment under the Act.

I therefore cancel the notice to end tenancy for cause dated January 20, 2014.

### Conclusion

The notice to end tenancy for cause dated January 20, 2014 is cancelled.

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: March 25, 2014

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Residential Tenancy Branch

