



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for cause.

Both the landlords and tenant attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Should the notice to end tenancy be cancelled?

### Background and Evidence

The tenancy was the subject of a previous dispute resolution hearing (RTB File 251034). In that decision, the arbitrator found that a tenancy agreement exists between the parties. The parties agree the tenant in this application pays rent of \$1,200.00 per month for the entire house.

The landlords gave evidence that they served the tenant with a Notice to End Tenancy for Cause (the "Notice") by registered mail on April 22, 2014. The Notice specifies the following reasons:

- Tenant or a person permitted on the property by the tenant has:
  - put the landlord's property at significant risk;
- Tenant has assigned or sublet the rental unit/site without landlord's written consent

The landlords gave evidence that the house containing the rental unit is approximately 100 years old. Their evidence is that the house was at some point illegally divided into

four suites and additional stoves were installed. The landlords provided a copy of a letter from the City of Nanaimo dated October 23, 2012 advising the landlords “you are required to return suites 1, 2, and 3 to a single tenancy and the only suite allowed in the building is suite 4 located on the ground floor at the northeast corner of the building”. The landlords gave evidence that there was an arson in approximately August 2012 which damaged the section of the building containing suite 4 and that area is not occupied.

The tenant gave evidence that she has occupied suite 2 since May 2012 and her son occupies suite 1. Her evidence is that she and her son now share one stove. The parties agree that the tenant sublet the section of the house known as suite 3 to another person; however they disagree on what the landlords knew and whether the landlords consented to the sublet. The most recent occupant of suite 3 moved in on December 1, 2013 and has agreed to vacate the rental unit as of noon on June 1, 2014.

The landlords gave evidence that they inspected the house on April 21, 2014 and discovered that the occupant of suite 3 had disconnected two smoke detectors. The tenant accompanied the landlord on this inspection of suite 3 and confirms this. The tenant’s evidence is that she had not been inside suite 3 since the most recent occupant moved in on December 1, 2013, and did not know when he disconnected the smoke detectors.

The tenant gave evidence that she took prompt action on the discovery and replaced the disconnected smoke detectors in suite 3.

The landlords’ position is that the disconnection of the smoke detectors created a significant risk to the property, especially since the occupant is a smoker. The landlords request an order of possession.

I have not summarized the parties’ evidence regarding whether or not the landlords knew that the tenant was subletting suite 3. Based on my decision below, I do not need to consider that issue.

### Analysis

When a landlord issues a notice to end tenancy for cause and the notice is disputed by the tenant, the onus is on the landlord to prove one or more of the specified causes on a balance of probabilities. Here, the landlord has specified two causes for ending the tenancy. If the landlord proves at least one of those causes, the Notice will not be

cancelled. However, if the landlord does not prove any of the specified causes, then I must cancel the Notice.

In this case, I find the landlords have proven the cause “Tenant or a person permitted on the property by the tenant has put the landlord’s property at significant risk.” I find that the disconnection of two smoke detectors in a roughly 100 year old house which has been renovated without permits (including the installation of additional stoves) created a significant risk to occupants and property in case a fire started in the area without smoke detectors. This may be particularly a risk in a property where there has previously been an arson. Although the person who disconnected the smoke detectors was not the tenant herself and the tenant herself was unaware of the disconnection, the tenant did permit that person on the property. For that reason, I find the landlord is entitled to end the tenancy.

Since the landlord has proven one of the specified causes to end the tenancy, I have not made any finding as to whether the landlords consented to the sublet of part of the house by the tenant.

The tenant’s application to cancel the Notice is dismissed; **the tenancy shall end on the effective date of the Notice which is June 1, 2014.** I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

### Conclusion

The tenant’s application is dismissed. I grant the landlord 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: May 23, 2014

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Residential Tenancy Branch

