



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC OPC FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47; and
- b) To recover the filing fee for this Application.

Service:

The Notice to End Tenancy is dated May 27, 2014 to be effective June 30, 2014 and it was served personally on the tenants. The tenant said they personally served the Application for Dispute Resolution on May 28, 2014 and the landlord agreed they received it. I find the documents were legally served for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. This was a difficult hearing as the tenant's telephone had echoing and noise problems and despite ringing off and calling back in, the problems persisted. When they were off the line, there was no telephone problem. Also, English was a second language and the father kept saying "Hello, Hello" over top of the other participants; his daughter who was assisting in translation said she had no idea why.

The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;

b) The tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.

Apparently the problem stems from the husband of the daughter. She had lived with her father earlier in the tenancy, then moved out and came back later with her husband. The landlord said the RCMP have been contacted numerous times since 2012 and the husband was deported. He allegedly returned illegally to Canada and the tenant's building has had significant issues with stolen cars while he lived there before and since he returned. The landlord sent a letter on May 27, 2014 to the tenants outlining the criminal behaviour of the husband reported by the RCMP in their files. On May 12, 2014, the husband was in the underground parking lot in a vehicle stolen from another location; he was asked to stop and ran over the building manager's husband as he fled.

In another RCMP report it states the husband abandoned the stolen car when chased by the police and among the items recovered from the stolen car was a front door key to the tenant's building and a remote from a car that was stolen from the tenant's building two weeks prior. The landlord said the husband is allowed access into the building through his wife and he is a fugitive and criminal who is putting the landlord's and other tenant's property at significant risk so she had no choice but to end the tenancy of these tenants. Apparently the husband has been deported again but the landlord said when and if he returns, he naturally goes to his wife and relative and the landlord and tenants are again at risk. She said this has been an ongoing problem since 2012.

The tenant contended she did not supply a key to her husband, he must have kept it from before and she should not be blamed for her husband's activity as he is not living there. She acknowledges he got accused of maybe one car theft but states the landlord is blaming him for many more; she said her brother was likewise blamed unfairly. The landlord answered this by noting her brother caused significant problems before he died. The tenant said the Police would have come to her door if they thought her husband was there; the landlord noted the husband had the tenant's number on his telephone in the abandoned car and they did not want to alert him by contacting her.

The landlord provided copies of four police reports in evidence and a letter to the tenant enumerating his offences and outlining the cause for ending the tenancy; the Notice to End Tenancy is also in evidence.

The tenant alleges that the Notice should be set aside because she does not accept it and they raise the rent every year. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant pursuant to section 47 of the Act. I find the evidence of the landlord credible and I prefer it to the evidence of the tenant in respect to the causes cited, namely, that a person permitted on the property by her has put the landlord's property at significant risk and has adversely affected the quiet enjoyment, security and safety of another occupant or the landlord. I find the landlord's evidence supported by the police reports and charges.

The tenant gave some reasons why the Notice should be set aside. While she claims her husband does not live there, it appears from the dates in the police reports and the fact he was found in a stolen car in her building that he still connects and visits with her. I find it improbable that he would drive a car stolen from another location to his wife's location and not feel somehow invited to be there or visit with her. Although she contends he has been deported again, I find the landlord has good cause to fear repetition of the behaviour since he was deported before and returned and resumed the criminal behaviour in their building. I find the tenant was defending her husband and minimizing his behaviour which supports the landlord's contention that he will be back and cause problems while his tenant wife continues to reside there.

For all of the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the landlord has good cause to end this tenancy. I find the tenancy is terminated on June 30, 2014 and an Order of Possession is issued effective July 31, 2014 as requested by the landlord.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. The tenancy is at an end. I find the tenant not entitled to recover the filing fee due to their lack of success. An Order of Possession is issued effective July 31, 2014.

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: July 10, 2014

