



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Metro Vancouver Housing Corporation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause.

The hearing was originally conducted via teleconference on May 26, 2014 and was attended the tenant; her two witnesses; two agents for the landlord and their 7 witnesses. Due to time constraints only 1 witness for the tenant provided testimony and only 4 of the landlord's witnesses were heard.

At the end of the original hearing I advised the parties that if I felt I had enough evidence and testimony to render a decision I would do so and if not I would reconvene the hearing. As I had not heard from all witnesses for both parties, I determined, in the interest of administrative and natural justice that I should reconvene the hearing to hear all remaining witnesses.

During the original hearing, the landlord verbally requested an order of possession should the tenant be unsuccessful in her Application.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

If the tenant is unsuccessful in her Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on February 12, 2010 for a month to month tenancy beginning on April 1, 2010 for a current monthly subsidized rent of \$510.00.

The tenant provided a copy of a 1 Month Notice to End Tenancy for Cause issued March 24, 2014 citing the 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; the tenant has engaged in illegal activity that has or is likely to damage the landlord's property; adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; jeopardize a lawful right of another occupant or the landlord; and the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord submits that they received complaints from other residents in the building that the tenant has had an unauthorized male occupant living in the rental unit in 2013 and that they had given her three warning letters that required her to have the alleged male occupant vacate the rental unit. The reports and landlord all understand the male occupant had a criminal past including being a known drug dealer.

The tenant testified that she had had a man staying with her (DR) and that she cut off ties with him as of August 2013 and he has not been staying with her since then. She stated that he did have a copy of keys to the building and her unit but that she retrieved them from him in August 2013.

The landlord submits that they were made aware that the tenant had a woman living with her and that she was again in breach of the tenancy agreement requirements that stipulate who the occupants can be in the rental unit.

The tenant submits that the female was only staying with her for a short period of time while she was transitioning from her own living arrangements. The tenant submits the female guest is no longer staying with her. The tenant submits that the female occupant had given the police the tenant's address as her own address.

The tenant submits her female friend used the tenant's address because that was where she was at the time she was speaking with police. The landlord submits that the Ministry of Children and Family Development also at been provided with the tenant's address as the address for the female occupant. The tenant stated that she had provided that address so Ministry staff could assess the suitability of the tenant's home as place that the female occupant's children could play at.

The landlord testified that when they receive a report that a tenant has another person living with them they send a letter to the tenant telling them to have the person leave. The landlord stated they do not conduct an investigation to determine whether or not the report is true, they rely on the response from the tenant.

The landlord's witness CH testified that there have been several incidents at the residential property since 2013, as follows:

- February 2013 – the tenant's alleged male occupant was causing a "ruckus" in the courtyard;
- April 2013 – the tenant's alleged male occupant brought into the residential property a box of bike parts;
- April 2013 – witnessed NS's son's bike was stolen
- August 2013 – another tenant tried to remove the tenant's alleged male occupant;
- September 2013 – the tenant's alleged male occupant and friends attempted to gain access;
- November 2013 – a newspaper was blocking the door opened;
- March 2014 – a "domestic dispute" between the tenant and her alleged male occupant;
- March 2014 – attempted theft from a swamp meet collection with 2 men attempting to remove them. These men had been seen with the tenant and her alleged male occupant.

The landlord's witness JW stated that the tenant brings in a lot of people and that there are disturbances at 3:45 in the morning. He states that he discovered two men in the garage stealing a bike. He states that one of the men attempted to tell him that he lived in a particular rental unit but the witness knew this to be untrue and they later told him that they had come from the tenant's unit. The witness JW went on to say that he later saw a tall guy taking speakers and that this guy told him that he had been let in by the tenant.

The witness JM stated that on May 8, 2014 she ran into a fellow in the hallway and she asked who he was. Despite reluctance, after another tenant came along, the fellow identified himself as a friend of the female occupant of the tenant's rental unit. The witness submitted that this person is a known drug dealer.

The landlord's witness OK noted that he lives in the rental unit below the tenant. He states that since he has moved in there is constant noise in the tenant's unit including doing laundry at all hours; constant stomping and banging. He states that he often hears male and female voices during the day, night and early morning.

The tenant acknowledges that due to a medical condition she does walk heavy and that she accesses the bathroom throughout the night. She also acknowledges that she will do laundry at any time if her son has vomited or soiled is clothing or bedding. The tenant submits she is allowed to have guests to her home.

This witness went on to describe an event on April 28 at around 11:00 p.m. that a person knocked on his door and when he partially opened the door the man tried to push his way into the unit. The intruder finally stated he was on the wrong floor. OK stated that he later heard the man at the tenant's unit. The tenant testified that she did speak to the person. The witness stated he could tell the tenant was letting these people in because he can hear her buzzing them into the building.

The witness OK also stated that he has on occasion attempted to go to the tenant's unit to discuss noise complaints but when he arrives he hears a man's voice in the unit and he does not knock because he is uncomfortable not knowing who is in the unit.

The landlord's witness DH testified that she fears for her safety because of the people who come in and out of the tenant's unit. DH recounted an event on March 2, 2014 that began at 8:00 a.m. that involved the tenant's former male occupant causing a disturbance at the tenant's unit. Police were called and he was taken away but then returned a half hour later. The tenant thanked DH for being there to call the police when the man was bothering her.

The landlord's final witness AF testified that she was formerly the President of the Tenant's Association and in that role she had spoken to the tenant on many occasions regarding security breaches. Some of the breaches included the propping open of the laundry room door; and the person gate into the parking garage. On one occasion the witness had got the tenant's former male occupant sneaking in through the laundry. As a result of these breaches the witness had asked the tenant to resign from the board.

The tenant's witness LU provided testimony at the original hearing and the reconvened hearing regarding the tenant's character but did not provide any direct testimony regarding any of the events or allegations from any of the landlord's witnesses or the landlord.

### Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
  - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - iii. Put the landlord's property at significant risk;
- b) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
  - i. Has caused or is likely to cause damage to the landlord's property,
  - ii. 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, or
  - iii. Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
- c) The tenant
  - i. Has failed to comply with a material term, and

- ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

While the tenant disputes all claims against her, I find by the preponderance of testimony and evidence from both the landlord and their witnesses and on a balance of probabilities, the landlord has established that they have cause to end this tenancy. I therefore dismiss the tenant's Application.

I find that while the tenant did have her male occupant DR stop living in the rental unit she did allow another person to move in to the rental unit. I find that she did this after she was made fully aware that the landlord considered doing so would be a breach of a material term of the tenancy when they advised her about the male occupant.

I also find that through her actions the tenant has allowed access to several unauthorised people into the residential property. I also find that these people may have committed or attempted to commit illegal acts such as theft and caused unreasonable disturbances that have caused many residents to fear for their safety.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

As the landlord requested an order of possession orally in the hearing and I have dismissed the tenant's Application, pursuant to Section 55(1) I find the landlord is entitled to obtain an order of possession.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: June 6, 2014

