



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Port Coquitlam Senior Citizens Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause. the hearing was conducted by conference call. The tenant and the landlord's representative called in and participated in the hearing.

### Issue(s) to be Decided

Should the Notice to End Tenancy dated June 30, 2014 be cancelled?

### Background and Evidence

The rental property is an apartment building in Port Coquitlam that provides housing for seniors. The tenancy began in 2010. On June 30, 2014 the landlord's representative personally served the tenant with a one month Notice to End Tenancy for cause. The Notice to End Tenancy required the tenant to move out of the rental unit by July 31, 2014. On July 2, 2014 the tenant filed an application for dispute resolution to request the cancellation of the Notice to End Tenancy.

The ground alleged by the Notice to End Tenancy was that the 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.

The landlord's representative testified that in June, before the Notice to End Tenancy was given to him, the tenant permitted a man said to be a drug dealer to stay in the rental unit. The landlord's representative testified that the tenant had previously allowed a woman, who was a drug addict to stay in his rental unit. The landlord's representative

testified that the tenant's actions jeopardized the health and safety of other occupants of the rental property.

The tenant testified that he allowed the person complained of by the landlord to stay in his apartment for three days, because he was in poor health, homeless and waiting to be admitted to hospital. The tenant said that he has not allowed anyone to stay in his apartment since the landlord complained about this incident. The landlord's representative acknowledged at the hearing that there have been no further incidents since the Notice to End Tenancy was given on June 30<sup>th</sup>.

### Analysis

The Residential Tenancy Policy Guideline with respect to "Illegal Activities" provides in part as follows:

#### **The Meaning of Illegal Activity and What Would Constitute an Illegal Activity**

The term "illegal activity" would include a serious violation of federal, provincial or municipal law, whether or not it is an offense under the Criminal Code. It may include an act prohibited by any statute or bylaw which is serious enough to have a harmful impact on the landlord, the landlord's property, or other occupants of the residential property.

The party alleging the illegal activity has the burden of proving that the activity was illegal. Thus, the party should be prepared to establish the illegality by providing to the arbitrator and to the other party, in accordance with the Rules of Procedure, a legible copy of the relevant statute or bylaw.

The fact that the tenant may have allowed a drug user or alleged drug dealer to stay in the rental unit does not constitute an illegal activity. I find that the landlord has failed to establish that it has a valid ground for ending the tenancy. I note as well that the tenant has not allowed anyone else that the landlord may object to, to stay in the rental unit since the Notice to End Tenancy was given. The tenant is permitted to have guests come to the rental unit.

Conclusion

The landlord has failed to establish facts to support the ground alleged in the Notice to End Tenancy. I therefore allow the tenant's application and order that the Notice to End Tenancy dated June 30, 2014 be, and is hereby cancelled. The tenancy will continue until ended in accordance with the *Residential Tenancy Act*.

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: August 28, 2014

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Residential Tenancy Branch

