



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNC

### **Introduction**

This Hearing was scheduled to hear the Tenant's application to cancel a *One Month Notice to End Tenancy for Cause* (the "Notice") issued June 20, 2014.

The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form and make submissions to me.

It was determined that the Tenant served the owner with the Notice of Hearing documents by hand delivering the documents. It was also determined that the parties exchanged their documentary evidence. I described the contents of each party's documentary evidence and the other party acknowledged receipt of the documents described.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, **I refer to only the relevant facts and issues in this decision.**

### **Background and Evidence**

There is no written tenancy agreement between the parties; however, the parties agreed on the following terms of the oral tenancy agreement:

- This tenancy began in March or April, 2013.
- Monthly rent is \$785.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$392.50 at the beginning of the tenancy.

The Tenant has paid rent for the month of August, 2013.

The Landlord and the owner gave the following affirmed testimony:

The Landlord testified that the Tenant started severely trimming trees on the rental property "a few months ago" without his permission.

The Landlord stated that he didn't consider evicting the Tenant because the damage was done, but then the Tenant cut down a tree without his permission. He stated that he gave her written warning not to cut down any more, and issued the Notice on June 20, 2014. The Landlord stated that he issued the Notice approximately a week after he discovered that she had cut down the tree.

The Landlord and the owner are concerned that the Tenant is not going to stop damaging the trees on the rental property, particularly the ones at that border the road, providing privacy and muffling traffic noise. Some of the trees are more than 20 years old and irreplaceable.

The owner stated that she fears that the trees that were severely trimmed have lost so many of their lower branches that they may not survive.

The Landlord asked for an Order of Possession.

The Tenant gave the following affirmed testimony:

The Tenant stated that the Landlord knew that she needed to garden and that the trees were blocking the sun. She stated that the Landlord gave permission to trim the trees and asked her to get three estimates for topping and trimming the trees.

The Tenant testified that she understood that "topping" a tree meant taking 10 to 15 feet off the top. She agreed that the Landlord did not give permission to cut the tree back as much as she did. She also acknowledged that it would probably not survive. The Tenant stated that there was a miscommunication with the person she hired to top the tree.

**Analysis**

The Landlords seek to end the tenancy because the Tenant has caused extraordinary damage to the rental property.

Both parties provided photographs in evidence, which show that very tall trees have been trimmed to the point that all of their lower branches are gone for about half the height of the tree. There is also a photograph of a tree that has been trimmed to the point that the top 2/3 of the tree is gone and there are no branches left on the remaining

trunk. I find it probable that this tree will not survive. I also find it improbable that the Landlord or the owner would have agreed to such aggressive pruning of the trees on their property.

Section 47(1)(f) of the Act provides:

**Landlord's notice: cause**

**47** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

I find that the Notice is a valid notice to end the tenancy because the Tenant, or the person hired by the Tenant to prune the trees, did extraordinary damage to the trees. I dismiss the Tenant's application to cancel the Notice to End Tenancy.

Section 55(1) of the Act states:

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the testimony of the parties, I am satisfied that the Tenant received the Notice on or about June 20, 2014. I find that the effective date of the end of the tenancy was July 31, 2014. However, the Tenant has paid full rent for the month of August and therefore I find that the Landlord is entitled to an Order of Possession effective August 31, 2014.

**Conclusion**

The Tenant's application is dismissed without leave to re-apply.

I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., August 31, 2014**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and 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: August 20, 2014

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Residential Tenancy Branch

