



# Dispute Resolution Services

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, OPC

### Introduction

This hearing was convened in response to an application by the tenant for an order setting aside a notice to end this tenancy. The landlord filed a cross-application requesting an order of possession. Both parties participated in the conference call hearing.

### Issue to be Decided

Should the notice to end tenancy be set aside?

### Background and Evidence

The parties agreed that on June 30, the tenant was served with a Notice to End Tenancy for Cause (the "Notice") in which the landlord alleged that the tenant had engaged in illegal activity which had or was likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord testified that the tenant had walked into the suite of her maintenance manager while he was under the influence of drugs. She submitted a statement from the maintenance manager in which he stated:

[The tenant] was in my suite at approximately 5:00PM. He was higher than a kite. He does drugs.

We do not tolerate drugs at [landlord's name].

The landlord further testified that she had received complaints from 2 other tenants. A tenant who identified herself as R stated that the tenant seemed unstable on his feet, paranoid and ranted about ghosts and someone stealing his belongings. At the

landlord's request, I contacted R during the hearing and asked her if she would like to appear at the hearing as the landlord's witness. R refused to participate.

The landlord submitted a letter from JA who stated that she had witnessed the tenant high on drugs and observed that his arms were flying. She heard him comment that someone had been moving things in his attic and said he had a camera on her and another tenant. At the landlord's request, I contacted JA during the hearing and asked her if she would like to appear at the hearing as the landlord's witness. JA refused to participate.

### Analysis

The landlord bears the burden of proving that she has grounds to end the tenancy. Specifically, she must prove that the tenant has engaged in illegal activity and also that this activity has or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

I find that the landlord has not met her burden of proof. The landlord did not witness any of the aforementioned events firsthand and the witness statements she provided do not indicate that the writers were adversely affected. Rather, the statements simply describe the tenant's actions without describing whether their own quiet enjoyment, sense of safety or security or physical well being was affected.

For these reasons I order that the Notice be set aside and of no force or effect. The tenancy will therefore continue.

### Conclusion

The landlord's application is dismissed and the Notice is set aside.

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: September 15, 2014

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Residential Tenancy Branch

