



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing was scheduled to be heard at 11:00 a.m. on this date concerning the tenant's application for an order cancelling a notice to end tenancy for cause and to recover the filing fee from the landlord for the cost of the application.

An agent for the landlord company attended the hearing and was prepared to respond to the tenant's application, however, the tenant did not attend. The line remained open while the phone system was monitored for 10 minutes and the only participant who joined the call was the landlord's agent. Therefore, I hereby dismiss the tenant's application without leave to reapply.

During the course of the hearing, the landlord's agent orally requested an order of possession. He testified under affirmation that a 1 Month Notice to End Tenancy for Cause was issued to the tenant on August 28, 2014. The notice was personally handed to the tenant on that date by the building manager, and the landlord's agent was there and personally witnessed that. He testified that the notice is dated August 28, 2014 and contains an effective date of vacancy of September 30, 2014, and that the reasons for issuing the notice are:

- Tenant or a person permitted on the property by the tenant has
  - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - Put the landlord's property at significant risk.

The landlord's agent also testified that the landlord provided evidentiary material to the Residential Tenancy Branch by taking it to the Burnaby branch office on October 16 or 17, 2014, but none of that material was received by me prior to the hearing.

### Analysis

The *Residential Tenancy Act* states that if I dismiss a tenant's application disputing a notice to end the tenancy issued by the landlord, and if the landlord makes an oral request for an order of possession at the hearing, I must grant it. Therefore, having dismissed the tenant's application, and having heard the oral request by the landlord's agent for an order of possession, and upon hearing the testimony of the landlord's agent that the effective date of vacancy contained in the notice has already passed, I accept the testimony of the landlord's agent and I hereby grant an order of possession in favour of the landlord on 2 days notice to the tenant.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an order of possession in favour of the landlord on 2 days notice to the tenant.

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: October 27, 2014

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Residential Tenancy Branch

