



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 529114 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: CNC OPC FF

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47.

### **Preliminary Issue:**

The landlord requested that the named respondent on the Application, Decision and Order be amended to show the landlord's company name in accordance with the Notice to End Tenancy. The amendment was granted.

Service:

The Notice to End Tenancy is dated September 10, 2014 to be effective October 31, 2014 and the landlord gave sworn evidence that it was served under the tenant's door, although the tenant in her Application said it was handed to her minor daughter. I find the evidence of the landlord credible and the tenant did not attend to support her written submission. The landlord gave evidence that they received the tenant's Application for Dispute Resolution by registered mail. I find the documents were legally served for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy? Or is the tenant entitled to any relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

### **Background and Evidence**

Only the landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in July 2014, rent is \$850 a month and a security deposit of \$425 was paid. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant has allowed an unreasonable number of occupants in the unit;

- b) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and
- c) The tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.

The landlord provided three letters in evidence. One said she resides in the complex and is disturbed by teens talking and swearing at a late hour outside on the porch from this unit which is near her unit and it disturbs children and other residents; another states they live seven houses away and are significantly disturbed by this noise; another states she is equally disturbed by the noise and partying late into the night of the teenagers who occupy this unit. The manager states that the problem appears to be that the parent works nights and the teenagers are unsupervised and at least one boyfriend comes and stays there frequently. Other tenants are being significantly affected and the manager is concerned that they will lose good tenants because they are unable to sleep nights due to the noise from this unit. She said that some of the teens now appear to be entering and exiting through a back window and have broken the back fence to gain access.

Included with the evidence is the Notice to End Tenancy, warning letters from management to the tenant, three letters from other tenants in the complex, a breach letter and a layout of the complex showing a number of complainants and their locations.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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**Analysis:**

As discussed in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant.

I find the section 47 notice to end tenancy cites the cause that the tenant or persons permitted on the property by her significantly interfere with the peaceful enjoyment of other occupants or the landlord. I find the evidence of the landlord credible in respect to the causes cited, namely, that the tenant, her daughters or persons permitted on the property by her has significantly interfered with or unreasonably disturbed another occupant or the landlord. Three tenants in their letters support the landlord's oral sworn testimony that this tenant's teen daughters have frequent late night guests who yell swear and party. I find the weight of the evidence is that the tenant, her daughters and their guests significantly disturb the peaceful enjoyment of other tenants in the building as they are kept awake by the loud noise.

Although the tenant alleged in her Application that the landlord was harassing her by demanding one boyfriend be on the lease and have a criminal check if he is going to live there, I find this issue is irrelevant to the cause of the landlord ending her tenancy. The evidence supports the landlord's allegations that this tenant and the behaviour of her daughters and boyfriends and/or guests are significantly disturbing the peaceful enjoyment of a number of other tenants in the complex.

For all of the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on October 31, 2014. Pursuant to the landlord's request and as authorized by section 55 of the Act, I find the landlord entitled to an Order of Possession.

**Conclusion:**

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed without recovery of the filing fee. The tenancy is at an end on October 31, 2014. An Order of Possession is issued to the landlord effective two days from service.

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: November 12, 2014

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Residential Tenancy Branch

