



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF, OPC

### Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The landlord's application is a request for an Order of Possession based on a one-month Notice to End Tenancy for cause.

The landlord's application is a request to cancel the one month Notice to End Tenancy for cause.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issue is whether or not the landlord has grounds to end this tenancy or whether the Notice to End Tenancy should be canceled.

Background and Evidence

The landlord testified that:

- There have been four incidents of flooding in this rental unit and the tenant has failed to notify her on any of those four occasions.
- The first flood occurred in January 2009 when the tenant left her kitchen sink running while she was on the phone and it overflowed.
- The second flood occurred in November 2011 caused by some pipes leaking under the bathroom sink.
- The third flood happened in 2014 from the tenant's laundry tub, and again the tenant failed to inform her, and she heard about the flood from the owner of the suite below.
- The fourth flood was from clogged drains on the balcony which caused the backup of water into the suite however again the tenant failed to inform her of the flood, and it was accidentally discovered when she and a friend were in the rental unit for another reason.
- It concerns her that the tenant is having so many floods, however of equal concern is the fact that the tenant never informs her when there is a flood, and therefore she worries that there could be damage caused to the rental unit due to delay.
- She is also worried that the insurance company, on top of raising her insurance due to the numerous floods, may decide not to insure her for flooding.
- She therefore asks that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- She admits that in January 2009 she accidentally allowed her sink to overflow causing damage to the suite below. The strata however took care of the repair and she paid the full \$2500 deductible.

- The second leak was also in 2009 and was a result of a leak in the pipes of the suite above resulting in water running down the wall next to the toilet.
- The third leak was in June of 2014 when her washing machine overflowed causing flooding in the suite below and again the strata arranged for a restoration company to resolve the issue. She had been fully willing to pay for any invoice, however she was never billed anything for this leak.
- The most recent leak was due to a heavy rainstorm in November of 2014 that cause leaking in numerous suites in the rental property, and was not the result of a clogged drain pipe. Water pools on her deck all the time even when the drain is working properly.
- She admits that she did not inform the landlord of any of the leaks; however she contacted the building manager and felt that he could deal with the issues.
- She therefore asked that this Notice to End Tenancy be canceled.

In response to the tenant's testimony the landlord testified that:

- It is her right to know when there is a leak in the rental property, and the tenant has a responsibility to inform her of any leaks and the tenant's failure to do so puts her property at risk.

### Analysis

It is my finding that the landlord does have reasonable grounds to end this tenancy.

The tenant has admitted that she has not informed the landlord on the occasion of any of the leaks, and it's my finding that that's unreasonable.

The strata property manager is not the tenant's landlord, and although it's reasonable to inform the strata property manager as well, the tenant has a responsibility to inform the landlord when there is a leak at the rental property.

Failure of the tenant to inform the landlord of the numerous leaks at the rental property puts the landlord's property at significant risk as it does not allow the landlord a reasonable opportunity to deal with the possible damage in a timely manner.

Therefore it is my decision that I will not cancel this Notice to End Tenancy, and I will be issuing an Order of Possession to the landlord and an order for recovery of the landlords filing fee.

However, since we are now well into the month of December 2014, it's my decision that it would be unreasonable to expect the tenant to vacate on December 31, 2014, and I therefore have issued an Order of Possession for January 31, 2015. The tenant therefore will be liable for January 2015 rent.

### Conclusion

The tenant's application is dismissed in full without leave to reapply.

I have allowed the landlords request for an Order of Possession, and have issued an Order of Possession for 1:00 PM on January 31, 2015.

I have also issued an Order for the tenant to pay \$50.00 to the landlord for the cost of the landlords filing fee.

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: December 17, 2014

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Residential Tenancy Branch

