



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Landlords: OPC, OPB

Tenant: CNC, LRE, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. The landlords sought an order of possession and the tenant sought to cancel a notice to end tenancy and an order restricting the landlords' access to the rental unit. The hearing was conducted via teleconference and was attended by one of the landlords.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on January 5, 2014 in accordance with Section 89.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*. In addition, the hearing date was originally set based on the tenant's Application for Dispute Resolution and as such, I am satisfied the tenant was aware of the hearing; the call-in procedures and the matters to be adjudicated during the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to an order of possession for unpaid rent, pursuant to Sections 47 and 55 of the *Act*.

It must also be decided if the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 67, and 72 of the *Act*.

### Background and Evidence

The landlord has submitted into evidence a copy of a tenancy agreement signed by the parties on July 8, 2014 for a 6 month and 1 day fixed term tenancy beginning on July 15, 2014 for a monthly rent of \$1,300.00 due on the 1<sup>st</sup> of each month with a security deposit of \$650.00 paid.

The tenant has submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued on December 23, 2014 with an effective vacancy date of January 23, 2015 citing the tenant is repeatedly late paying rent and the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

### Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if the tenant is repeatedly late paying rent or the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

As the tenant has failed to attend this hearing and present any evidence to justify cancelling the Notice issued by the landlord I dismiss the tenant's Application for Dispute Resolution in its entirety. As such, I order that the tenancy must end in accordance with the Notice issued on December 23, 2014.

Section 47(2) states that a notice given under Section 47 must end the tenancy on a date that is not earlier than 1 month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement.

As such, in the case before me, I find that while the landlords have issued the notice indicating the effective vacancy date is at least one month after the tenant received the Notice, the effective is earlier than the day before the day in the month that rent is payable. As the day in the month that rent is due in the tenancy agreement is noted as the 1<sup>st</sup> of each month, I find the earliest possible effective date of the Notice is January 31, 2015.

Section 53 of the *Act* stipulates that if a landlord or tenant give a notice to end tenancy on a date that does not comply with the requirements outlined in the relevant section of the *Act* the notice is deemed to be changed to the earliest date permitted under the applicable section. Based on the above, I amend the effective date of the Notice to End Tenancy to January 31, 2015.

Conclusion

I find the landlord is entitled to an order of possession effective **January 31, 2015 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: January 21, 2015

---

Residential Tenancy Branch

