



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, CNL, FF

### Introduction

The tenant applies to cancel a two month Notice to End Tenancy for landlord use of property received December 30, 2014 and to cancel a ten day Notice to End Tenancy for non-payment of rent received January 9, 2015.

### Issue(s) to be Decided

Does the relevant evidence presented at hearing show on a balance of probabilities that there are good and valid grounds for either Notice?

### Background and Evidence

The rental unit is a one bedroom condominium apartment in an apartment building. The tenancy started October 15, 2014 on a month to month basis at a rent of \$950.00. The landlord holds a \$475.00 security deposit and a \$475.00 pet damage deposit.

The landlord testified that the tenant had not paid the January rent. He adduced copies of text messages between the parties dated January 9, 2015 corroborating the non-payment.

The landlord says the tenant is smoking marijuana in the apartment and that the tenant's dog urinated in the parking lot. He is receiving complaints from the strata council and fines have been threatened. He says that to preserve his condominium apartment he must move back in so as to get the tenant out.

The tenant says he did pay rent for January in cash. He says that he has a medical permit to possess and use marijuana and that he often cooks it in his apartment, for example, in the form of brownies or as a butter that he can ingest through the use of a vaporizer. He says he cleans up after his dog.

### Analysis

The burden of proving payment of a debt is on the debtor. In this case, that is the tenant. He has not proved payment of the January rent, indeed, his text message to the landlord on January 9<sup>th</sup> corroborates that he did not pay the rent.

As a result and by operation of s. 46 of the *Residential Tenancy Act* this tenancy ended on January 20, 2015 and the landlord is entitled to an order of possession, which he requested at hearing pursuant to s. 55 of the *Act*.

In these circumstances I need not consider the validity of the two month Notice.

Additionally, the landlord appears to have commenced to make an application for dispute resolution for recovery of the January rent. That application was not completed or paid for nor served and so I determine that it has not been made. The landlord is free to apply in that regard.

### Conclusion

The tenant's application is dismissed. An order of possession for the premises will issue.

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: February 03, 2015

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Residential Tenancy Branch

