



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC, OLC, ERP, RP, PSF / OPC

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for cause / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to make emergency repairs for health or safety reasons / an order instructing the landlord to make repairs to the unit, site or property / and an order instructing the landlord to provide services or facilities required by law.

Two agents representing the landlord, and a legal advocate representing the tenant attended and gave affirmed testimony. The tenant's legal advocate testified that she does not know of the tenant's present whereabouts, and that she has received no instructions from him with regard to his application since the time when she assisted him to complete it in February 2015.

During the hearing the landlord's agents (the "landlord") confirmed that the landlord seeks an order of possession in the event the tenant's application for cancellation of a notice to end tenancy for cause does not succeed.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on December 01, 2009. Monthly rent of \$375.00 is due and payable in advance on the first day of each month, and a security deposit of \$427.00 was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated February 16, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is March 31, 2015. Reasons identified on the notice in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- damage the landlord's property
- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- jeopardize a lawful right or interest of another occupant or the landlord

The tenant filed an application to dispute the notice on February 18, 2015. As for documentary evidence, further to the application itself, none whatsoever has been submitted by the tenant.

Documentary evidence submitted by the landlord includes, but is not limited to, several incident reports regarding the tenant's conduct and behaviour. Concerns identified include reports pertaining to "abuse and physical threats," "yelling / swearing out loud," "loud drug and alcohol noise," and "smashing the wall by the elevator." Police have previously attended the unit in relation to the tenant's conduct and behaviour.

While the tenant's legal advocate testified that she herself has not reviewed the landlord's documentary evidence, neither is there any evidence that the tenant instructed the landlord that he would be represented by the legal advocate, and / or that matters related to this dispute should be directed to the attention of the legal advocate.

### Analysis

Section 47 of the Act, as above, provides in part as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (d) the tenant or a person permitted on the residential property by the tenant has
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - (iii) put the landlord's property at significant risk;

Section 55 of the Act addresses **Order of possession for the landlord**, and provides in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the landlord's documentary evidence and affirmed testimony, and in view of the absence of any documentary evidence from the tenant, and an absence of any direct testimony by the tenant or instruction from him to the legal advocate attending the hearing on his behalf, I find that the tenant's application must be dismissed in its entirety, and I find that the landlord has established entitlement to an **order of possession**. Specifically, I find that the tenant's conduct and behaviour has "significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property," and that it has also "seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant."

As the end of tenancy nears, the attention of the parties is drawn to the following particular sections of the Act:

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 38: **Return of security deposit and pet damage deposit**

Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Tuesday, March 31, 2015**. This order must be served on the tenant.

Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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: March 17, 2015

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Residential Tenancy Branch

