



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNC / OPC

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 1 month notice to end tenancy for cause. Both parties attended and gave affirmed testimony. During the hearing the landlord's agent (the "landlord") confirmed that an order of possession is sought in the event the tenant's application does not succeed.

### Issue(s) to be Decided

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

### Background and Evidence

The unit which is the subject of this dispute is located within a 5 storey building which provides accommodation to individuals, many of whom have addiction and / or mental health challenges.

Pursuant to a written tenancy agreement the tenancy began June 25, 2012. Monthly rent of \$375.00 is due and payable in advance on the first day of each month, and a security deposit of \$187.50 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 27, 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 April 01, 2015, and reasons identified in support of its issuance are as follows:

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

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord

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

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Subsequently, the tenant filed an application to dispute the notice on March 09, 2015.

During the hearing the parties attempted to reach agreement around a mutually satisfactory end date to tenancy.

### Analysis

At the outset, the attention of the parties is drawn to certain statutory provisions which are relevant to this particular dispute. Section 47 of the Act 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

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or...

Following the tenant's receipt of the 1 month notice to end tenancy for cause on February 27, 2015, I find that she filed an application to dispute the notice within the 10 day period allowed pursuant to section 47(4) of the Act.

Section 55 of the Act addresses **Order of possession for the landlord**, 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.

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a resolution and it was specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the tenant will vacate the unit by not later than **Thursday, April 30, 2015**, and that an **order of possession** will be issued in favour of the landlord to that effect.

Finally, as the end of tenancy nears, the attention of the parties is drawn to the following statutory provisions:

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

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

### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **Thursday, April 30, 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: April 13, 2015

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Residential Tenancy Branch

