



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for cause.

The tenant attended the hearing and gave affirmed testimony. However, despite being personally served with the Tenant's Application for Dispute Resolution and notice of this hearing on May 20, 2015, no one for the landlord attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the tenant. The tenant testified that the landlord was served on that date and in that manner. The landlord provided evidentiary material to the tenant on May 26, 2015, a copy of which the landlord has also provided to the Residential Tenancy Branch on May 25, 2015. In the circumstances, I accept the testimony of the tenant, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence and the testimony of the tenant have been reviewed and are considered in this Decision.

### Issue(s) to be Decided

Has the landlord established that the notice to end tenancy was issued in accordance with the *Residential Tenancy Act*?

### Background and Evidence

The tenant testified that this month-to-month tenancy began on February 1, 2015, however with a different landlord. The tenant signed a new tenancy agreement with the new landlord on April 7, 2015 for a month-to-month tenancy to begin on April 1, 2015. Rent in the amount of \$750.00 per month was payable on the 1<sup>st</sup> day of each month and there are no rental arrears. On January 31, 2015 the tenant paid the original landlord a

security deposit in the amount of \$375.00, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided by the landlord.

The tenant further testified that there was no move-in condition inspection report completed at the beginning of the tenancy.

The landlord told the tenant several times that he wanted to rent the rental unit to his in-laws, and on April 29, 2015 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause, and the landlord has provided a copy for this hearing. The notice is dated April 29, 2015 and contains an effective date of vacancy of June 1, 2015. The reasons for issuing the notice state:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed 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.

When the tenant served the landlord with the hearing package, the landlord said he was surprised that the tenant was disputing the notice to end the tenancy, and made it difficult for the tenant to stay in the rental unit, but the tenant denies doing anything wrong, or that the landlord had any cause to issue the notice.

Since the landlord made it so uncomfortable to stay in the rental unit, the tenant moved out on May 30, 2015 and the parties completed a move-out condition inspection report. The tenant provided a forwarding address on the form as well as a phone number, however the landlord did not give the tenant a copy of the report. The tenant received \$180.00 of the \$375.00 security deposit, but not the entire amount, and the tenant did not agree in writing that the landlord retain any portion.

The tenant seeks an order that the 1 Month Notice to End Tenancy for Cause be cancelled because the tenant has an application for rental with BC Housing, and if evicted for cause, the tenant has to have 6 months of a good tenancy before the application could be re-opened; the tenant is concerned that she'd be considered a bad tenant which could jeopardize the application.

### Analysis

The landlord has provided evidentiary material, and the tenant moved out of the rental unit after that material was provided. The tenant does not seek an Order of Possession, but an order that the notice be cancelled because it may jeopardize an application with

BC Housing. The tenant denies the allegations contained in the landlord's notice and seeks an order cancelling it. The tenant testified that the landlord said several times that he wanted the rental unit for his in-laws. The landlord did not attend the hearing, assumingly because the tenant has already moved out.

If I cancel the notice, the tenancy continues, which is not an order sought by the tenant.

However, the *Residential Tenancy Act* states:

**Director's authority respecting dispute resolution proceedings**

**62** (1) The director has authority to determine

- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
- (b) any matters related to that dispute that arise under this Act or a tenancy agreement.

(2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

(4) The director may dismiss all or part of an application for dispute resolution if

- (a) there are no reasonable grounds for the application or part,
- (b) the application or part does not disclose a dispute that may be determined under this Part, or
- (c) the application or part is frivolous or an abuse of the dispute resolution process.

In the circumstances, I find that the landlord did not have cause to issue the 1 Month Notice to End Tenancy for Cause and has not satisfied me that the notice was issued in accordance with the Residential Tenancy Act, and I hereby cancel it. However, since the tenant has moved out of the rental unit and does not seek an order of possession of the rental unit, I decline to order that the tenancy continues or make any other orders..

Conclusion

For the reasons set out above, I find that the landlord has failed to establish any cause to issue the notice or that the 1 Month Notice to End Tenancy for Cause dated April 29, 2015 was issued in accordance with the *Residential Tenancy Act* and I hereby cancel it. Since the tenant has not sought an Order of Possession of the rental unit, I decline to order that the tenancy continues or any further orders with respect to the tenant's application before me.

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: June 23, 2015

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Residential Tenancy Branch

