



# 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 to cancel a notice to end tenancy for cause. Both parties attended and gave affirmed testimony.

During the hearing the landlord confirmed that she seeks an order of possession in the event that 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

A previous hearing was held in April 2015 concerning a similar dispute in this particular tenancy. The unit which is the subject of this dispute is 1 of what are 53 units located within a 3 storey building.

Pursuant to a written tenancy agreement the tenancy began on August 01, 2014. The agreement names 2 tenants: female tenant "GF," and male tenant "DB" who is the applicant and the only tenant who attended the hearing. Monthly rent of \$900.00 is due and payable in advance on the first day of each month, and a security deposit of \$450.00 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 May 26, 2015. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown by when the tenants must vacate the unit is June 30, 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
- 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

Tenant has caused extraordinary damage to the unit / site

Tenant has not done required repairs of damage to the unit / site

Tenant "DB" filed an application to dispute the notice on June 08, 2015.

In summary, the landlord alleges that the unit is chronically cluttered, and that such cluttered conditions foster the ongoing existence of a cockroach infestation. The landlord is concerned that this infestation has supported the existence of cockroaches elsewhere in the building, as well as infestations within other particular units. Tenant "DB" claims that the tenants have taken all steps required by the landlord to deal with the clutter, and that there are therefore no grounds to end the tenancy for cause.

### Analysis

Based on the testimony and documentary evidence, which includes but is not limited to, photographs taken by the landlord within the unit, and 3 "work order / resident service request" documents, my findings are set out below.

Following 3 occasions when the landlord inspected the unit, "work order / resident service request" documents were completed, respectively, on January 29, 2015, March 04, 2015, and June 18, 2015. The document dated January 29, 2015 reads as follows:

Highest activity – active nesting in the kitchen. It may be source of [cockroaches] for [2 other particular units] and other neighbours. Applied maxforce treatment and greenway treatment. Maintenance needs to install door sweep.

The document dated March 04, 2015 reads as follows:

Highest infestation of cockroaches – they are crawling everywhere in the suite and potentially infesting the neighbours (see tenant reports around [unit number])

for [cockroach] sighting. Lots of clutter in the living room, w/c might be infested with this level of infestation. Applied gel bait treatment. Also placed insect monitor. Consistent housekeeping / sanitation needed.

The document dated June 18, 2015 reads as follows:

High infestation of [cockroaches]. Live [cockroaches] in kitchen, bathroom & hallway. Applied maxforce bait gel treatment. Placed sticky traps and insect monitors – the suite is cluttered with stuff and [cockroaches] may hide / nest behind all those garbage bags. Consistent housekeeping needed for treatment to work. The tenant also needs to vacuum the suite (including kitchen, bdrm, living room and closets) thoroughly at least once or twice a week. The tenants' vacuum doesn't have sufficient suction power.

The previous decision dated in April 2015, which is referenced at the outset of this present decision, sets out the details of a settlement achieved by the parties during the previous hearing, in part as follows:

1. The landlord will attend the tenant's rental unit on Thursday, April 16, 2015, at 4:00 pm, to inspect the rental unit and provide recommendations to the tenant;
2. The landlord will attend the tenant's rental unit on Thursday, April 23, 2015, at 4:00 pm to further inspect the rental unit to ensure the tenant is maintaining "reasonable health, cleanliness and sanitary standards" throughout the rental unit as required by section 32(2) of the Act.

I note that the previous decision was issued after the second "work order / resident service request," and prior to the third "work order / resident service request." While there is no documentary record before me of what particular instructions or recommendations were issued to the tenants following the unit inspections on April 16 and 23, 2015, the cluttered condition of the unit appears to have persisted between the time when the last 2 "work order / resident service request" documents were issued, respectively, on March 04 and June 18, 2015. Further, as earlier noted, the landlord's 1 month notice to end tenancy was issued by date of May 26, 2015, which is after the 2 unit inspections in April 2015, and before the third and final "work order / resident service request" dated June 18, 2015.

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....

I find that the cockroach infestation in the unit has persisted over a period of several months, and that the infestation has the potential of spreading elsewhere in the building, including other particular units, if it has not already done so. While I find that the tenants may have rearranged their belongings as a result of monitoring and instructions issued by the landlord, the unit remains cluttered, and the cluttered conditions preclude steps being taken to effectively address the cockroach infestation. On balance, I find that the landlord has met the burden of proving that the tenants have “seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant” by failing to remove the clutter. The tenant’s application for cancellation of the 1 month notice to end tenancy is therefore set aside.

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.

Following from the oral request made by the landlord during the hearing, I find that the landlord has established entitlement to an **order of possession**, which is made effective **Monday, August 31, 2015**.

Conclusion

The tenant's application for cancellation of the 1 month notice to end tenancy for cause is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **Monday, August 31, 2015**. This order must be served on the tenant(s). Should the tenant(s) 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: July 29, 2015

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Residential Tenancy Branch

