



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CROSSROAD ENTERPRISES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC OPC RPP

### **Introduction:**

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated June 5, 2015 to be effective July 31, 2015. Both parties were present at the hearing.

### **SERVICE:**

I find that the Notice to End a Residential Tenancy was served personally on the Tenant and the landlord admitted personal service of the application for dispute resolution.

**Issues:** Is the tenant entitled to any relief? Has the tenant proved on a balance of probabilities that the landlord has taken his personal property and he is entitled to its return?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy began on July 1, 2012. The current rent is \$730 and a security deposit of \$362.50 was paid. The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- b) The tenant has put the landlord's property at significant risk;
- c) The tenant has caused extraordinary damage to the landlord's property; and
- d) Breached a material term of the tenancy agreement that was not corrected within a reasonable time.

The landlord submitted a significant amount of evidence showing that the tenant feeds pigeons which also encourages other wildlife. He said the owner just put a \$70,000 repair on the roof and it is being covered with pigeon feces which concerns the roofer. Several tenants sent in complaints about how the animal feeding is significantly disturbing them, one noting that the increased number of squirrels are tearing up her balcony garden by depositing the peanuts that the tenant is feeding them and another talking of the squirrels living in her attic, breeding and frightening her.

The landlord supplied photographs illustrating the number of pigeons roosting on the wires and showing the feces deposited by them on the property.

The signed tenancy agreement in evidence specifically prohibits the feeding of any animals or birds in clause 16 and the landlord sent three warning letters to the tenant in June 2015 to state he was in breach of this material term of his tenancy agreement. The landlord said the behaviour continued with no change.

The landlord noted when he tried to remove feeding bowls from the common property the tenant attacked him.

The tenant and his counsel pointed out that there was no objective evidence of any damage to the landlord's property. The tenant alleges he was given permission to feed the animals through a Christmas card which states "Thought we'd lost ya a couple of times but ya hung in there and thank goodness cause you have a flock of friends who would be lost without ya". He enclosed an article concerning the importance of pigeons during the wars. He said complaint letters were from employees of the landlord. He said the attitude and disrespect of the supervisor made him angry and this encouraged him to keep feeding the animals.

The landlord noted that only one letter was from one of their subcontractors and the others were valid complaints from other residents. He said he has all the tenant's bowls and will return them to him. The tenant requested compensation for his bowls and his legal fees.

**Analysis:**

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes that there is insufficient cause to end the tenancy. Although the tenant disputed the Notice in time, I find the weight of the evidence is that his behaviour in feeding the wildlife is a material breach of clause 16 of his signed tenancy agreement and he has not corrected it within a reasonable time after notification by three letters in June 2015. I find the Christmas Card from the landlord is ambiguous and do not construe it as permission to feed wildlife in contravention of his lease. Furthermore, I find the weight of the evidence is that his behaviour is significantly interfering with and unreasonably disturbing other occupants and the landlord. While there is no independent evidence of damage to the landlord's property as submitted by the tenant, I find the other causes sufficient to end the tenancy. I dismiss his Application. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of

possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. The landlord has made this request at the hearing.

The parties discussed the matter and agreed to settle on the following terms and conditions:

1. The tenant will vacate the property on September 30, 2015 and the landlord will obtain an Order of Possession for that date.
2. The tenant promises that he will not feed any animals or wildlife at all from now until he vacates the premises.
3. The landlord agrees to return all the tenant's bowls to him.

I dismiss the tenant's application for recovery of legal fees. Section 72 of the Act provides for recovery of filing fees only in cases of success.

**Conclusion:**

The tenant's Application is dismissed. No filing fee was paid. I grant the landlord an Order for Possession effective September 30, 2015. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

**I HEREBY ORDER THAT the tenant cease immediately from feeding all wildlife on the premises as he promised in settlement. I give the landlord leave to reapply for a monetary order to compensate for any damages caused if the tenant resumes his activity of feeding of the wildlife.**

**I HEREBY ORDER that the landlord return all of the tenant's bowls to him.**

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 30, 2015

---

Residential Tenancy Branch

