



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC ERP, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for emergency repairs - Section 32;
2. An Order cancelling a notice to end tenancy – Section 47; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Are emergency repairs required?

Is the notice to end tenancy valid?

Is the Landlord entitled to an order of possession?

### Background and Evidence

The tenancy started on May 16, 2014. Rent of \$600.00 is payable monthly on the first day of each month. On August 30, 2015 the Tenant received a notice to end tenancy for cause (the “Notice”) on the door of the unit. The Notice lists four reasons, including that the Tenant has put the Landlord’s property at significant risk and that the Tenant seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

From the onset of the tenancy the Landlord did not have a key to the Tenant's unit and although the Landlord verbally asked for a copy on more than one occasion the Tenant refused. On August 28, 2015 the Landlord attended at the Tenant's unit asking to be let in as a leak in the ceiling had occurred in the unit below the Tenant's unit. The Tenant refused entry. The Landlord informed the Tenant that a plumber was called and that the Landlord needed entry into the unit. The Tenant then left the unit and did not provide a key to the Landlord. The Tenant states that he had to leave for work. The Landlord submits that after several attempts to reach the Tenant the Landlord called a locksmith and entered the unit to find an overflowing toilet. The Tenant denies receiving any calls from the Landlord. The Landlord states that following this entry the locks were again changed by the Tenant and at the hearing the Tenant continued to refuse to provide a key to the Landlord.

The Tenant states that although the Landlord told the Tenant that water was pouring into the unit below the Landlord was not given a key and that the locks were changed because he did not trust the Landlord, that the Landlord was not truthful, that the Landlord seemed determined to gain entry to the unit and that the Tenant simply did not want to give a copy of the keys to the Landlord. The Tenant states that on August 22, 2015 the Landlord tried to enter the unit claiming a leak and that no leak was found coming from his unit. The Tenant states that the Landlord scared the Tenant with their actions on that date and was the reason why the Tenant was not going to give them a key to the unit. The Tenant states that he was not scared on August 28, 2015 when the Landlord sought entry for a leak.

The Tenant states that no rent was paid for October 2015. The Landlord asks for an order of possession. The Landlord states that he does not want any rent for October 2015 and that he wants the Tenant out of the unit as soon as possible.

The Tenant states that the heat to the unit is unbearable and that the Landlord has refused to turn off the boiler over the summer. The Tenant states that although the Landlord told the Tenant that the boiler was turned off in August 2015 the Tenant does

not believe the Landlord. The Parties agreed that the Landlord would enter the Tenant's unit between noon and 1:00 p.m. on October 8, 2015 to inspect the unit for heat and make repairs if necessary. The Tenant agrees to provide a key to the Landlord.

### Analysis

Where a notice to end tenancy comes under dispute, the landlord has the burden to prove, on a balance of probabilities, that the tenancy should end for the reason or reasons indicated on the Notice and that at least one reason must constitute sufficient cause for the Notice to be valid. Section 47(1)(d) provides that a landlord may end a tenancy where the tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk. Overall I found the Tenant's lack of concern and disregard for the Landlord's property during apparent and real emergencies to be reckless. Given the undisputed evidence that the Tenant has refused to provide a copy of the unit key to the Landlord for emergency purposes for what I consider to be baseless reasons and has refused on two occasions to allow the Landlord entry into the unit during what appeared to the Landlords to be an emergency, and considering that on one of those occasions the emergency was caused from a problem in the Tenant's unit, I find that the Landlord has substantiated that the Tenant seriously jeopardized the health or safety or a lawful right or interest of the Landlord and put the Landlord's property at significant risk. As a result I find that the Notice is valid and the tenancy must end. I dismiss the Tenant's claim for a cancellation of the Notice.

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, at the time scheduled for the hearing, the landlord makes an oral request for an order of possession, and the tenant's application is dismissed or the landlord's notice is upheld. As the Notice had been found valid and given the Landlord's oral request at the hearing, I find that the Landlord is entitled to an order of possession.

Given the agreement of the Landlord to inspect the Tenant's unit for heat level, and considering that the tenancy is ending, I dismiss the Tenant's claim for emergency repairs. As the Tenant's application had little merit, I decline to award recovery of the filing fee.

Conclusion

The Notice is valid.

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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: October 09, 2015

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Residential Tenancy Branch

