



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LOOKOUT EMERGENCY AID SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC OPC

### **Introduction:**

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated September 30, 2015 to be effective November 1, 2015. Both parties were present at the hearing and confirmed service of each other's documents. The tenant submitted late evidence but the landlord said they had received it on November 13, 2015 and had time to consider it and had no objections to it being part of the evidence in the hearing. I therefore considered the late evidence of the tenant in my Decision.

**Issues:** Is the tenant entitled to any relief?

### **Background and Evidence:**

Both parties and witnesses attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The evidence is that the tenancy began May 15, 2012. The current rent is \$375 as subsidized and the security deposit is \$250. 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 engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord and that:
  - i) damages the landlord's property; and
  - ii) jeopardizes a lawful right or interest of another occupant or the landlord.

The landlord said the issue is drug dealing by the tenant. This is housing for vulnerable people and she has been interfering with and unreasonably disturbing other occupants and the landlord with her drug dealing. The landlord provided details of many complaints from other tenants saying this tenant is jeopardizing their recovery by providing illegal drugs. Several letters of complaints from tenants were provided. The landlord's witness said he was told by tenants on September 23 and 24<sup>th</sup> that she was drug dealing and one showed him the package of crystal meth that he bought from her. The landlord said numerous warning letters have been given to the tenant, for example

on December 18, 2013, and on January 11, 2014 and the Police have been involved but she continues her behaviour.

The tenant said these are lies and staff lies about her because she helps other tenants when they do not. She provided a petition signed by many tenants stating they want her to remain in the building. Her witness also supplied a letter stating how helpful the tenant has been to her. However, the landlord pointed out that the tenants just signed the petition when they were requested and none of them, including her witness denied that she was dealing drugs. The landlord contended that her behaviour is harming other tenants and the building principles and programs and requests an Order of Possession if the tenant is unsuccessful.

The tenant's neighbour and witness tried to negotiate a longer time frame for an Order of Possession. The landlord's agent left the conference to confer with management and returned to say that he could only get authorization to have the Order of Possession effective November 30, 2015. He agrees to have the effective date November 30, 2015.

**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. The onus of proof is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy.

I find the landlord's evidence credible and I prefer it to the evidence of the tenant for the landlord's evidence is well supported with written complaints, incident reports and oral testimony in the hearing. Although the tenant submitted a petition and a letter in support, I find that these documents did not deny that the tenant was dealing in drugs but stated that they want her to remain in the building and she has many good qualities. I find the landlord's evidence credible that the behaviour of the tenant in drug dealing is significantly disturbing the peaceful enjoyment of other tenants and jeopardizing their health and safety as many of the tenants are vulnerable people in recovery. Although the tenant contended that staff was lying about her because she was helpful to other tenants, I find this improbable as staff are professionals with no obvious motive to lie about this tenant.

I therefore dismissed her application to cancel the Notice to End the Tenancy. The tenancy ended November 1, 2015. 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. As a result I grant the landlord an Order for Possession effective November 30, 2015 as he agreed.

**Conclusion:**

I grant the landlord an Order for Possession effective November 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 dismiss the tenant's application. No filing fee was involved.

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: November 18, 2015

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Residential Tenancy Branch

