



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PRO CAN REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      cnc, opc, ff

### Introduction

The tenant applies for an order cancelling a one month Notice to End Tenancy. The landlord applies for an Order of Possession, and to recover the filing fee from the tenant.

Both parties attended and testified at the hearing, and each party presented a witness who testified at the hearing. No written or photographic evidence was exchanged between the parties prior to the hearing.

### Issues to Be Decided

- Is the One Month Notice to End Tenancy (given September 30, 2015) effective to end this tenancy, and entitle the landlord to an Order of Possession, or should the Notice be cancelled, and the tenancy continue?
- Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

This tenancy began in February, 2007. Rent is due on the 1<sup>st</sup> day of each month in the amount of \$800.00. The tenancy started prior to the involvement of the current property manager. No written tenancy agreement was tendered into evidence by the tenant, and the landlord does not have a copy of any written agreement.

The landlord's property manager testified that over the past year, there has been an ongoing battle by the landlord with the tenant and with the City. The tenant has allowed a mess to accumulate on the subject property. Throughout the past year, the landlord has repeatedly requested that the tenant clean up the grounds. The landlord eventually forwarded a letter to the tenant from the City that they will send in a crew to clean up the yard if it was not done by the owner or the tenant. On October 10, a City work crew entered the property with a dump truck and a backhoe and commenced a clean up. There will be a bill of about \$10,000 payable by the owner of the property related to this cleanup, all of which is attributable to the tenant's permitting the premises to become unkempt and cluttered with garbage, scrap metal and derelict vehicles. The rental home is on a small acreage. The rent is paid by social services, from 2 people. In fact, however, the tenant has allowed numerous people to camp in tents or in vehicles on the premises. There are constantly people coming and going from the premises. The police are regularly at the premises. People on the grounds have advised the landlord that the

Tenant is their landlord.

The landlord's witness is a By-law Services Officer for the City of Surrey. He testified that the City first requested that the property be cleaned up in June, 2015, as a result of numerous complains from neighbours and passing commuters. A warning was provided that the City would clean the premises up if the owner or occupants failed to do so. He inspected the property on September 15, which he described as "unsightly". and witnessed tents on site with about 10-12 people there, and about 10 vehicles on the property, including derelict vehicles. The tenant was not there, and he left cards for the tenant to contact him. Further written notice was again provided to the owner to clean up the premises. When there was insufficient voluntary compliance as to the breach of the Bylaw regarding the garbage and vehicles on site, he returned with a backhoe, a truck and a work crew on October 1. The crew worked all day long, but could not complete the clean up, which included a significant volume of scrap metal and car parts. The number of actual vehicles on the yard at that point had been reduced to 3 wrecked vehicles.

The tenant testified he cannot afford to rent the premises on his own, and relies on roommates. The current property manager is negligent in her communication skills. She has also interfered with his ability to find roommates, when she fails to fill out their applications for income assistance for their rent. He denies subletting to others. He denies causing any disturbance, or placing the property at any risk. He submits the house is in need of repairs. Because he is disabled, he could not cut the lawn, and earlier in his tenancy the City would cut his lawn for him. He has previously tried to clean up the yard, and loaded accumulated garbage into large waste bin containers brought on site at a cost of \$175.00 per bin. He received only one day warning before the City crew arrived on October 1. He had been out hunting before that, and returned only 36 hours earlier. He believes there was only 2 RV's on the site on October 1, one of which was a guest vacationing from out of town. The other RV had a broken driveshaft, which has since been repaired and moved to the driveway. There was only one tent in the front yard. The past presence of police was mostly related to an armed invasion that occurred at his home, and which was out of his control. He was aware that the City had complained to the owner about the mess in the property, and he mostly complied with clean up requirements. The problems with the City are the owner's problem not his.

The tenant's witness testified that came to know the tenant by chance on June 15. He had run out of money, and bought an RV. He was invited by the Tenant to bring his motorhome onto the Tenant's premises, and he stayed there for about 3 weeks. He left on October 1, and was not charged anything for staying there. He witnessed the Tenant trying to get rid of people who were living in a tent on the property, and who would not leave voluntarily, or even when police requested them to. He recalls there were motorhomes in the back yard, a girl in a van in the front, and some scrap cars on the property.

### Analysis

I find that over the many years he has rented this small acreage, the tenant has permitted the grounds of the property to become unsightly. He initially failed to maintain the growth of lawn, requiring the City to cut it. He permitted an accumulation of derelict vehicles and scrap metal. He allowed persons to reside in tents and in RV's on the property, and when some of these proved to be unwanted, he was unable to remove them from the property. He was warned many times by the landlord to clean up the premises. To his credit, he has tried in the past to clean up the property, including the rental of large waste bins. In late September he tried at the last minute to comply with City requirements, but his efforts were not sufficient to prevent the City from coming in and doing a massive clean up on October 1.

I must conclude that as a result of conduct by the tenant, or as a result of guests of the tenant, the property's condition deteriorated to a point where it no longer complied with City Bylaws as to the number of vehicles on site, or as to the number of derelict vehicles on site. The reality is that the owner now faces a massive clean-up bill which is attributable in large measure to the tenant allowing this problem to grow and get out of hand. I find that as a result of this conduct by the tenant or persons permitted on the property by the tenant, there has a breach of City Bylaws, and a clean up cost estimated to be \$10,000 for which the owner will be responsible. This is a serious jeopardization of the landlord's interest in the property, and has provided the landlord legitimate cause to end the tenancy.

I also consider that the breach of the Bylaw demonstrates illegal activity by the tenant, that has jeopardized the landlord's financial interest in the property, providing further cause for the landlord to end the tenancy.

The One Month Notice ending the tenancy is therefore found effective to end this tenancy pursuant to sections 47(1)(d) and (e), and the landlord has established a right to possession. The tenant's claim that the notice be cancelled is dismissed. I note that the Notice was stated to be effective October 31, 2015, which date was extended by virtue of the tenant's application for this hearing. I further note that the tenant has not paid all of his rent for November and has paid no rent for December. This is not a case therefore where the tenancy has been extended by rent accepted on a use and occupation basis. Rather the tenancy ends immediately as a result of the One Month Notice. The tenant must vacate the premises, and the landlord is entitled to regain possession.

Understanding that the tenant will incur some difficulty in an immediate move, I find it appropriate to issue an Order of Possession that is effective 7 days following service of that Order upon the tenant.

### Conclusion

The tenant's claim is dismissed.

Pursuant to Section 55 of the Residential Tenancy Act, I issue an Order of Possession, effective 7 days following service upon the tenant. Should the tenant fail to comply with

this Order, the landlord may register the Order with the Supreme Court for enforcement.

As the landlord is successful, the landlord is entitled to an award of \$50.00 representing the recovery of the filing fee.

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: December 04, 2015

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Residential Tenancy Branch

