



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FZK INVESTMENTS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNL CNC OPL OPC FF

### Introduction

This hearing was convened pursuant to applications by the tenant and the landlord regarding two notices to end tenancy. The tenant and three agents for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the notice to end tenancy for cause dated February 25, 2016 valid?

### Background and Evidence

The tenancy began in 2004. Rent is payable in advance on the first day of each month. On February 25, 2016 the landlord served the tenant with a notice to end tenancy for cause. The notice indicated that the reason for issuing the notice was that the tenant was repeatedly late paying rent.

The landlord stated that they purchased the building and took it over on January 28, 2016. The landlord stated that the tenant was late paying rent for February 2016. The landlord looked at their records and found that the tenant had paid rent late every month in 2015 and in January 2016.

The tenant stated that since the landlord took over the building he has only paid rent late once, and his past record is irrelevant. The tenant also stated that the previous owners did not have a problem with the tenant paying his rent late.

The landlord submitted that the tenant and his records run with the building, not with the ownership. The landlord also submitted that the tenant has an ongoing contract with the landlord, whereby the tenant must pay rent on the first of each month, and the tenant's history is therefore relevant.

The landlord requested an order of possession effective April 30, 2016.

### Analysis

I find that the notice to end tenancy for cause is valid. A change in ownership does not prevent a landlord from relying on a tenant's history prior to the changeover. For example, a new owner cannot impose new terms on the tenant or increase the rent contrary to the Act. In this case, the tenant was contractually required to pay rent on the first day of each month, and he failed to do so every month between January 2015 and February 2016. The fact that the previous owner did not take action regarding the tenant's repeated late payment of rent did not alter the material term of the tenancy that the tenant was required to pay rent on the first of the month. I find that the tenant was repeatedly late paying rent for the 14 months preceding the notice, and I therefore confirm the notice to end tenancy dated February 25, 2016, and I dismiss the tenant's application to cancel the notice.

I am satisfied that the notice to end tenancy for cause dated February 25, 2016 meets the requirements regarding form and content as set out in section 52 of the Act. Under section 55 of the Act, when a tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the notice to end tenancy complies with the requirements under section 52 regarding form and content, I must grant the order of possession. Accordingly, I grant the landlord an order of possession effective April 30, 2016.

As I have granted an order of possession pursuant to the notice to end tenancy for cause, it is not necessary for me to consider the notice to end tenancy for landlord's use.

The landlord has received the order of possession as a result of the dismissal of the tenant's application. It was not necessary for the landlord to file their own application for an order of possession, and I therefore decline to award the landlord recovery of the filing fee for the cost of their application.

### Conclusion

The tenant's application to cancel the notice to end tenancy for cause dated February 25, 2016 is dismissed.

I grant the landlord an order of possession effective April 30, 2016. The tenant must be served with the 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: April 5, 2016

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Residential Tenancy Branch