



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, MNDC, OLC, ERP, LRE, FF

### Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause and for other relief, including a monetary order, an order that the landlord comply with the Act, that he perform repairs and setting conditions on his right to enter the rental unit. The hearing was scheduled to be heard by conference call. The landlord called in at the appointed time to participate in the conference call hearing. The tenant did not attend the hearing although it was the hearing of his application to cancel the Notice to End Tenancy for cause dated February 23, 2016.

### Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Is the landlord entitled to an order of possession?

Is the tenant entitled to a monetary award or any of the other relief claimed in the application?

### Background and Evidence

The rental unit is an upper suite in the landlord's house in New Westminster. The tenancy began in August, 2013 on a month to month basis with rent in the amount of \$1,200.00 payable on the first day of each month. The tenant paid a security deposit of \$600.00 at the start of the tenancy. It was a term of the agreement that smoking was not permitted in the rental property.

The landlord personally served the tenant with a one month Notice to End Tenancy for cause dated February 23, 2016. The Notice required the tenant to move out of the rental unit by March 31, 2016. The landlord gave several reasons for seeking to end the tenancy; they included repeated late payment of rent, an unreasonable number of

occupants in the rental unit and a claim that the tenant has put the landlord's property at significant risk. The tenant applied to cancel the Notice to End Tenancy on February 26, 2016.

The landlord submitted extensive documentary evidence to support the grounds stated in the Notice to End Tenancy for ending the tenancy. The landlord provided evidence that the tenant is smoking marijuana in the rental unit. The City of New Westminster has made numerous written complaints about the tenant's cruelty and neglect of a dog kept at the rental property. The City has also made written complaints about the presence of an unleashed aggressive dog on the rental property. The landlord has received written complaints from the City concerning violations of the City bylaws because of the presence of discarded materials, furniture and rubbish on the rental property. The City has threatened to levy fines against the owner because of the tenant's failure or refusal to clean up the rental property.

The landlord submitted as part of his documentary evidence, a Mutual agreement to End a Tenancy signed by the landlord and by the tenant whereby the parties agreed that the tenancy will end and the tenant will move out of the rental unit on April 22, 2016. The tenant and the landlord agreed in writing to additional terms including the payment of pro-rata rent for April and the tenant's agreement to clean up the property and remove all his personal belongings by the April 22<sup>nd</sup> move out date.

### Analysis

This was the hearing of the tenant's application, however he failed to attend the hearing although the conference call hearing was kept open for more than 10 minutes after the scheduled start time. In the absence of an appearance by the tenant by 9:10 A.M., the tenant's application is dismissed without leave to reapply.

Section 55 of the *Residential Tenancy Act* provides:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if
- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
  - (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The tenant's application has been dismissed without leave to reapply. The tenant has signed a mutual agreement to end the tenancy that requires him to move out of the rental unit on or before 1:00 P.M. on April 22, 2016 and the landlord is entitled to an order of possession effective April 22, 2016 after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The tenant's application to cancel the Notice to End Tenancy and for other relief, including a monetary award has been dismissed without leave to reapply. The landlord has been granted an order of possession.

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 14, 2016

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Residential Tenancy Branch