



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COQUITLAM KINSMEN HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNC OPC ERP RP PSF

### **Introduction:**

Both parties attended the hearing and confirmed the Notice to End Tenancy dated August 18, 2016 to be effective September 30, 2016 and the tenant's Application for Dispute Resolution were both served personally. I find the documents were legally served pursuant to sections 88 and 89 of the Act. The tenant applies pursuant to section 47 of the *Residential Tenancy Act* (the Act) to cancel the Notice to End the Tenancy for cause, for repairs to be done to the property and compensation for facilities not provided.

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

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy commenced January 1, 2002, a security deposit of \$250 was paid and rent is now \$576; it is geared to 30% of income. It is sent to the landlord by the Ministry. The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons: The tenant or a person permitted on the premises by the tenant

- (a) has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- (b) has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
- (c) Has put the landlord's property at significant risk.

The landlord provided oral testimony, photographs and official documents to prove the tenant's partner and father of her children had cut out floor joists in the unit, cut out studs and a firewall to an adjoining unit. The landlord said police surrounded the unit and executed a search warrant regarding criminal activity in August 2016. They found a large hatch cut out in the dining room, two cut-outs into an adjoining unit, and the electrical system possibly compromised. The City issued an Order stating the premises were unsafe for occupancy in this unit and the adjoining one. The adjoining unit had a disabled tenant so the landlord worked with the City to get the firewall repaired so he did

not have to move. However, this tenant's unit is so compromised with joist removal etc. that the remediation company cannot deal with it until all the tenant's belongings are removed. The tenant had to leave in August but her belongings are still there.

The tenant contended that she had no knowledge of what her partner was doing so she should not lose her housing because of his actions. She said he is incarcerated now and she has a restraining order against him. She does not understand why her unit was not repaired immediately like the other unit for she is a mother with three young children. She wants to stay. She also requests compensation of \$2100 for August to October rent as the unit was not available for her to stay due to the neglect of the landlord to repair.

The landlord said the tenant has had restraining orders in the past but the partner keeps coming around the complex and he stays with her. He shares three children with her. They said the partner's actions have significantly disrupted the life of the disabled tenant next door and disrupted the whole complex with the Police involvement. In addition, they said that on the inspection, they found a lot of material stored around the hot water tank in the tenant's unit and this is a hazard as well. They said they were able to deal with the adjoining unit for it was mainly the firewall separation in the attic but this unit has a great deal more work with structure damage which cannot be totally determined until it is vacant of all possession. They consented to an Order of Possession for November 20, 2016 in order to allow the tenant some time to remove her belongings.

The tenant's lawyer and landlord discussed the tenant's rent cheques which are issued directly by the Ministry. The landlord said they would return the rent cheques for September and October and for November if it is received. August has been cashed and they will not prorate it.

**Analysis:**

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. I find the landlords have satisfied the onus of proving on a balance of probabilities that they have good cause to end the tenancy. I find in section 47 of the Act that the tenant is responsible for actions of those she permits on the property. Although it may have been her partner that did the damage, I find it improbable that she was unaware of this amount of alteration/deconstruction in her home. However, whether or not she was aware, I find section 47 of the Act states she is responsible for his actions for he was permitted on the property by her. I therefore dismiss her application to cancel the Notice to End the Tenancy. 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 20, 2016 as requested.

Although the tenant made request for repair to her unit, I find this is moot as she has to vacate the unit on or before November 20, 2016. I find the landlord's evidence credible that they were unable to repair immediately as the professional company states the unit must be vacant for them to determine the amount of damage and the amount of repair needed. I dismiss her request for repair. The landlords have promised to return her September and October rent cheques to the Ministry. I find this is more than adequate compensation for she was still in possession of the unit and the landlord has lost rent for those months. I find the delay in repair was not due to neglect of the landlord but due to the tenant not removing her belongings so the unit could be assessed for repair.

**Conclusion:**

I grant the landlord an Order for Possession effective November 20, 2016. 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: October 20, 2016

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Residential Tenancy Branch