



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes: CNC OPC FF

### **Introduction:**

Both parties, a witness for the landlord and an advocate for the tenant attended the hearing and gave sworn testimony. The Notice to End Tenancy is dated May 1, 2017 to be effective June 2, 2017 and the tenant confirmed it was served by posting it on the door. The tenant said he served the Application for Dispute Resolution in the mail box designated for the landlord and the landlord agreed he received it. The effective date on the Notice is automatically corrected to June 30, 2017 pursuant to section 53 of the Residential Tenancy Act as a one month Notice to End Tenancy for cause must give a full month's notice and according to section 47(2) (b) end the tenancy on the day before the day in the month that rent is payable under the tenancy agreement. Pursuant to section 71(2) of the Act, I find the documents were sufficiently served for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel the Notice to End Tenancy for cause pursuant to section 47.

**Preliminary Issue:** The landlord's name was incomplete on the Application. It was amended per request to their full name as noted on the Notice to End Tenancy.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 47 and they are entitled to an Order of Possession? Or is the tenant entitled to any relief?

### **Background and Evidence**

Both parties, an advocate and a witness attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced June 1, 2011, it is now a month to month tenancy, rent is \$507 a month and a security deposit of \$247.50 was paid. The landlord said they took over the building a year and a half ago and the tenant was already living there.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by them
  - (i) has significantly interfered with and unreasonably disturbed another occupant or the landlord;

The landlord said the tenant is causing unreasonably loud noises at night which disturbs the other tenants. He has not stopped these noises despite warning from the landlord and Police and complaints from other residents. He is also throwing cat litter around the building. The eye witness testified that he saw the tenant throw cat litter into his laundry and was so angry that he almost got into a physical confrontation but was restrained by his wife. The landlord provided many letters from other tenants noting the noise and litter problems. They provided two signed petitions from the tenants noting the same issues and that he has had years to correct his behaviour but he continues to violate their rights to peaceful and quiet enjoyment of their rental units. Six tenants signed the petition in April 2017 and ten (including caretakers) signed one in June and listed individual complaints. The landlord provided photographs also and copies of letters and text messages. One resident noted the number of times she has had to call the Police because the tenant makes so much noise day and night that she can't sleep. She details the noises as running his TV and stereo playing loudly while his alarm is blaring for 8 to 10 hours, slamming his ceiling often every half hour during the night, setting off the fire alarm one night, and slamming the walls and screaming when residents use the laundry room. She said she has not had a peaceful nights sleep for a long time and this affects her ability to work.

The tenant said people were lying including the eye witness. The advocate for the tenant said she had only seen the documents this morning. She advocated for the tenant and called into question the evidence. She said it was circumstantial, other residents had pets and it may have been others that scattered the cat litter. She noted that apartments are generally noisy and it may have been other noises that were being blamed on the tenant. After further discussion on the evidence, the landlord agreed to accept July 31, 2017 as an effective date for the Order of Possession and the advocate promised that her society would assist the tenant to monitor his behaviour, make his unit clean and tidy for re-renting and help him move out. She said another society will also assist him and she gave the landlord contact telephone numbers.

Included with the evidence are many letters from tenants, the Notice to End Tenancy and a USB key illustrating noise problems. On the basis of the documentary and solemnly sworn evidence, a Decision has been reached.

**Analysis:**

Section 47 of the Act provides a landlord may end a tenancy if there is sufficient cause. Causes, any one of which may be a sufficient reason, are listed in that section. The tenant disputed the Notice in time. However, as pointed out in the hearing, I find the evidence is heavily weighted in favour of the landlord's cause to end the tenancy. Although the tenant said the witnesses lied and the advocate ably contended evidence was circumstantial and may be mistaken identity, I find the landlord's evidence more credible as it is supported by so many witnesses to the events. I find the details of the noises caused by the tenant illustrate the noises are unreasonable and loud and very disturbing to other occupants. I find sufficient evidence that he is the person scattering litter including kitty litter in the building and laundry room. I find the eye witness of the landlord credible as he could give a vivid account of the incident and he knows the tenant as they both reside in the same building; I find no motive for him to lie.

I find the evidence is that the tenant is significantly interfering with and unreasonably disturbing other residents of the building and the landlord has good cause to end the tenancy. The tenancy is ended June 30, 2017 (as corrected). I dismiss the Application of the Tenant. Pursuant to section 55 of the Act, when a tenant's Application to cancel the Notice is dismissed, the arbitrator may grant the landlord an Order of Possession. I grant the landlord an Order of Possession effective July 31, 2017 as agreed by him.

**Conclusion:**

The Application of the tenant is dismissed. The filing fee was waived. I find the landlord entitled to an Order of Possession effective July 31, 2017 as agreed.

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: June 29, 2017

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Residential Tenancy Branch