



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes      CNC

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- Cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47 of the Act (the 1 Month Notice).

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The parties acknowledged service of the application and respective evidence submissions on file. The tenant's application was filed within the time period required under the Act.

### Issues

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy for this apartment unit began on November 11, 2013 with a current monthly rent of \$659.21 payable on the 1<sup>st</sup> day of each month.

The landlord served the tenant with the 1 Month Notice on April 27, 2017 with an effective date of May 31, 2017. The grounds for ending the tenancy as per the 1 Month Notice are that the tenant seriously jeopardized the health or safety or lawful right of another occupant or the landlord; put the landlord's property at significant risk; and breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that they acquired the apartment buildings in January 2015. The building in which the tenant resides contains 66 units. There were pest issues in the buildings at the time they were acquired. The landlord submitted a copy of a work order dated March 10, 2015 of a pest inspection completed on the tenants unit. As per the work order, there was no evidence of active nesting in the tenants unit but gel bait treatment was applied. There was evidence of lots of clutter and the tenant was advised to declutter.

On March 17, 2017 the landlord issued a Notice of Entry to the tenant to enter the unit on March 23, 2017 for gel bait treatment pest control prevention. The tenant was advised to prepare his unit and provided instruction of how to do such. The landlord submitted a report from the pest control company dated March 23, 2017. As per the report there was heavy cockroach activity in the tenants unit. The report also cited poor sanitation and heavy clutter.

On April 1, 2017 the tenant was issued a warning letter to properly clean, sanitize and declutter the unit. The tenant was advised the pest control company would be returning on April 6, 2017 for a follow-up cockroach spray treatment. The tenant was also advised that his apartment was scheduled for an annual fire inspection and manager's inspection on April 19, 2017.

The landlord submitted the report from the pest control company dated April 6, 2017. As per the report, the unit was untreatable due to heavy clutter and a reschedule was recommended.

On April 8, 2017 the tenant was issued a final warning letter to declutter his suite before the rescheduled appointment date of April 12, 2017. The tenant was advised a 1 Month Notice would be served if the unit is not prepared. The landlord submitted the report from the pest control dated April 12, 2017. As per the report, the unit was sprayed but there was limited access due to heavy content.

The landlord submitted a report of the annual manager's inspection dated April 19, 2017. This inspection report cites the unit was filthy and cluttered.

The landlord argues the tenant breached a material term of the signed tenancy agreement which requires the tenant to maintain reasonable health, cleanliness and sanitary standards.

The landlord submitted an email from the tenant dated May 10, 2017 by which the tenant advised he is not able to satisfy the landlord's further requests for entry for pest control purposes on May 12, 2017. The tenant advised that he is not satisfied with the landlord's treatment. The tenant advised he is using Borax and successfully treating the pest problem on his own. The tenant denied entry on May 12, 2017.

The tenant testified that there was never any cockroach infestation on the building with the previous landlord. The issue only arose when the current landlord took over the building. He denies that his unit is cluttered. He testified that he is disabled and walks with a walker and utilizes a scooter in his apartment so it can't be that cluttered. With respect to the pest control report dated March 23, 2017 citing poor sanitation and heavy clutter, he argues that no concerns were addressed to him by the pest control company. The tenant argues that as per the landlord's pest control prevention guidelines, he was instructed to move items from the kitchen/bathroom areas so obviously the rest of the unit is going to look cluttered. He testified that a friend told him about Borax and since he used it he has not noticed any more cockroaches.

### Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the 1 Month Notice.

I find the landlord has provided sufficient evidence to support ending the tenancy for cause on each of the grounds indicated in the 1 Month Notice. The March 23, 2017 pest control report supports there was a heavy cockroach infestation on the tenants unit. The landlord attempted to remedy the situation by have pest control attend and spray the unit on various occasions after this initial report. The tenant was put on Notice and provided instructions on how to properly clean, sanitize and prepare his unit. On April 6, 2017 the pest control company reported they were unable to treat the unit due to heavy clutter and again on April 12, 2017 they were only able to partially treat the unit. The tenant was issued a final warning letter on April 8, 2017 and was advised a 1 Month Notice would be issued if he failed to properly prepare his unit for treatment. Further, on May 12, 2017 the tenant denied the landlord entry to perform follow-up treatment. By failing to properly clean, sanitize and prepare his unit and denying entry for pest control treatment, the tenant has seriously jeopardized the health or safety or

lawful right of another occupant or the landlord and put the landlord's property at significant risk. The tenant has also breached a material term of his tenancy agreement by failing to maintain reasonable health, cleanliness and sanitary standards and not corrected the breach within a reasonable time after written notice to do so.

The tenant's application to cancel the 1 Month Notice is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: July 10, 2017

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Residential Tenancy Branch