



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

Tenant: CNC  
Landlord: OPC FFL

### **Introduction**

This hearing was convened in response to cross-applications by the parties in which the tenant sought to cancel a One Month Notice to End Tenancy For Cause (the Notice or Notice to End), dated September 24, 2019 with an effective date of October 31, 2019. The landlord sought an Order of Possession and to recover the filing fee.

Both parties attended the hearing. The tenant acknowledged receiving the application of the landlord and a digital disk which they were not able to access for lack of a computer. The tenant acknowledged receiving the One Month Notice with an accompanying 1-page letter dated September 20, 2019, which both parties agreed to be the referenced 'breach letter'. The landlord acknowledged receiving the application of the tenant. The landlord stated they had sent the tenant a digital disk without confirming the tenant could access the information within. The parties were given opportunity to mutually resolve or settle their dispute to no avail. Both parties were given opportunity to present relevant oral testimony in respect to the applications, to fully participate in the conference call hearing and as well to present witnesses. As the digital evidence was not accessible to the tenant it does not form part of my Decision. The hearing proceeded on the merits of the oral testimony and limited document evidence. Prior to concluding the hearing both parties acknowledged they had presented all the relevant evidence that they wished to present.

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

Is the notice to end tenancy valid?

Is there sufficient cause so as to end the tenancy?  
Should the Notice to End in this matter be cancelled or upheld?  
If upheld is the landlord entitled to an Order of Possession?

*In this type of matter the burden of proof rests with the landlord*

### **Background and Evidence**

This tenancy started 24 years ago. The rental unit is occupied by the applicant tenant of this matter. The tenant submitted a copy of the Notice to End. The Notice was issued for the reason pursuant to **Section 47(1)(d)(ii)** and **47(1)(h)** of the Act; effectively that the,

**47(1)(d)(ii)** Tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

**47(1)(h)** the tenant

- (i) has failed to comply with a material term, and
- (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

The tenant disputes the allegation and validity of the Notice to End. The relevant disputed evidence is as follows.

The landlord claims the tenant's rental unit is cluttered and "obviously" used for storage. The landlord testified the rental unit is "piled with too much stuff". The landlord testified that they suspect the rental unit is a source of rodent problems. The landlord gave the tenant a "breach letter" on September 20, 2019 which, in part, states:

#### **Breach Notice - Residential Tenancy Act**

*As directed by the Residential Tenancy Act, your unit is too dirty to live in. you are in breach of your tenancy agreement. We have given you warning for several times. – as written.*

The tenant denies the landlord's allegations. The tenant testified they have lived in their unit for over 20 years, they are neat, keep their unit clean and cooking utensils polished.

The tenant testified they live alone and live simply; out during the day and home for their evening meal. The tenant disagrees with the landlord's claim they have "too much stuff" or that they live in a manner which places the health or safety of others in jeopardy. The tenant denies having received written warnings in the past and that the breach letter of September 20, 2019 was received 3 days prior to receiving the One month Notice for Cause, leaving no time to address the landlord's letter. The tenant testified that the landlord's letter left them feeling insulted and fearful of the landlord's intentions.

### **Analysis**

*The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).*

In this type of application(s), the burden of proof rests with the landlord to provide *sufficient* evidence that the Notice was validly issued for the stated reason(s) and altogether establishing sufficient cause to end the tenancy.

I accept the landlord has confidence in the information they presented in testimony. However, upon review of their testimonial evidence and the limited admissible document evidence I find it is vague, speculative, and unsupported so as to establish, on a balance of probabilities, that the tenant has *seriously* jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. I further find the landlord's letter is vague and does not address the landlord's primary claim the tenant keeps too many items in the rental unit. I also accept that the landlord's breach letter did not provide the tenant with reasonable time to correct the referenced situation. I find I have not been presented with evidence of any prior notices to the tenant addressing a breach of a material term.

As a result of all the above, I find the landlord has not provided sufficient cause to uphold their Notice to End Tenancy for Cause dated September 24, 2019. I find that the landlord's oral assertions fail to establish the landlord's burden of proof to end the tenancy. Therefore, **I Order** the Notice to End dated September 24, 2019 is cancelled and of no effect. The landlord is therefore not entitled to an order of Possession.

### **Conclusion**

The tenant's application is granted. The landlord's application is dismissed. The tenancy continues.

**This Decision is final and binding.**

*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: December 09, 2019

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Residential Tenancy Branch