



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Craft Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened in response the tenant's application seeking to cancel a Notice to End Tenancy given for cause.

Both parties appeared at the hearing of this matter and gave evidence under oath.

### Issue(s) to be Decided

Does the landlord have cause to end this tenancy?

### Background and Evidence

This tenancy began on April 1, 2012 with rent set at \$1,000.00 per month payable in advance on the 31<sup>st</sup> of each month. The tenant paid a \$500.00 security deposit at the start of the tenancy.

The landlord served the tenant personally with a Notice to End Tenancy for repeated late payment of rent and because the landlord believes the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonable disturbed another occupant or the landlord.

With respect to the late payment of rent the landlord testified that the rent has been paid late and/or in partial payments since January 2013 and two payments were returned NSF. The landlord says he agreed in writing to accept a late payment of rent for February but nothing more. The landlord says the tenant had a panic attack when her rent cheque was returned NSF and he tried to calm her but this was not intended to indicate that she could pay her rent late again in future. The landlord says the rent has still not been paid up in full to date. The landlord is seeking an Order of Possession effective June 30, 2013 as set out in the Notice to End Tenancy. The landlord says that

he is mindful of the tenant's disability issues and he is willing to extend the effective date of the notice if the tenant pays the rent arrears due in full today. However he is not willing to continue this tenancy.

On the late rent issue the tenant does not deny that the rent is late. She says she forgot an automatic payment that was to come out of her account and this caused the cheque to be returned NSF. In another occasion an insurance company removed funds from her account when they were not supposed to. The tenant say the landlord told her words to the effect that "...everyone is living hand to mouth..." and she believed this to mean that it was okay for her rent to be late from time to time as this was an established pattern between the parties and no notices to end tenancy for unpaid rent were issued.

### Analysis

With respect to the issue of repeated late payment of rent Residential Tenancy policy states that three late payments are sufficient to end a tenancy on this ground. In this case there are far more than three payments. As to whether the landlord acquiesced to late payments I find he did not. I make this finding because, when he did agree to accept a late payment, he put this in writing; otherwise there is no written record of other agreements to do so. I find it is reasonable and probable that if the landlord was willing to accept other late rental payments he would have put those acceptances in writing as well. While the tenant gave significant evidence as to why her payments were late she did not supply evidence of a bank error, which might be an acceptable reason to cancel a notice given in this regard for at least one event however in this case are several and based on the tenant's own testimony they were as a result of her own "...absent mindedness...". With respect to the issue of why the landlord did not issue a 10 day Notice to End Tenancy for the unpaid rent I find, based on the evidence that the landlord was mindful of the tenant's issues respecting her disability that he was attempting to be understanding but he cannot tolerate late rental payments over and over again. Overall I find that the landlord has cause to end this tenancy for repeated late payment of rent. I therefore dismiss the tenant's application seeking to cancel this tenancy.

There was significant testimony from the parties and witnesses with respect to the second ground for eviction however having decided that there is sufficient evidence under the ground of repeated late payment of rent I have not considered this evidence.

The tenant's advocate made submissions that if this tenancy was to end that the tenant be given additional time to move. The advocate submitted that the tenant has disability issues and a German shepherd dog both of which make it difficult for her to find new

accommodation. The Notice to End Tenancy has an effective date of June 30, 2013 and the tenant's advocate suggests something in between June 30, 2013 and December 2013.

The landlord has requested that all the rent be paid today in order to entertain a longer end of tenancy date. I am unable to make this an Order because I have no application with respect to rent arrears before me. However I do have discretion to change end of tenancy dates and I will allow the tenant one extra month, ending this tenancy

### Conclusion

Having declined to cancel the Notice to End Tenancy the landlord is entitled to an Order of Possession. It is difficult for a landlord to carry on with a tenancy where a tenant repeatedly pays the rent late, however I am mindful of the tenant's disability issues and the difficulties this may cause in finding new accommodation I will therefore grant the tenant another month that is until August 31, 2013 at 1 o'clock in the afternoon to vacate the rental unit. In the meantime, if the tenant does not pay the rental arrears and/or does not pay future rent on time the landlord remains at liberty to issue a 10 day Notice to End Tenancy.

The landlord is provided with a formal copy of an order of possession. This is a final and binding Order enforceable as any 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: June 18, 2013

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Residential Tenancy Branch