



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kiwanis Park Place  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, ERP

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy and an order to have the landlord complete emergency repairs.

The hearing was conducted via teleconference and was attended by two agents for the landlord.

At the outset of the hearing the landlord's agent's submitted that while the tenant had named the building as the respondent the name of the landlord is actually the society's name. I note that the name the tenant used on her Application as the respondent is different than the name of the landlord on the 1 Month Notice to End Tenancy. As such, I amend this Application to name the party that issued the Notice to End Tenancy as the landlord and respondent.

During the hearing the landlord requested an order of possession should the tenant be unsuccessful in his Application for Dispute Resolution.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause and an order to have the landlord complete emergency repairs, pursuant to Sections 33 and 47 of the *Residential Tenancy Act (Act)*.

Should the tenant be unsuccessful in the portion of her Application seeking to cancel the 1 Month Notice to End Tenancy for Cause it must also be decided if the landlord is entitled to an order of possession pursuant to Section 55(1).

### Background and Evidence

The tenant submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause issued on January 2, 2015 with an effective vacancy date of February 28, 2015 citing the tenant is repeatedly late paying rent and the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk.

### Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant is repeatedly late paying rent; or
- b) The tenant or a person permitted on the residential property by the tenant has
  - i. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - ii. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - iii. Put the landlord's property at significant risk.

Section 47(4) allows a tenant who receives a notice under Section 47 to apply to dispute the notice within 10 days of receiving it. Section 47(5) states that if a tenant does not file an Application for Dispute Resolution seeking to cancel such a notice the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

While I accept that the tenant submitted an Application for Dispute Resolution on January 12, 2015 or within 10 days of receiving the Notice to End Tenancy, I find that her failure to attend this hearing has the same result as if she had not filed an Application to dispute the Notice.

Therefore, I dismiss the tenant's Application for Dispute Resolution without leave to reapply.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld and the landlord requests one an order of possession must be granted to the landlord.

As I have dismissed the tenant's Application for Dispute Resolution seeking to cancel a 1 Month Notice to End Tenancy for Cause, I find the landlord is entitled to an order of possession.

Conclusion

I find the landlord is entitled to an order of possession effective **February 28, 2015 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: February 03, 2015

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Residential Tenancy Branch

