



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC CNL OPC

### **Introduction:**

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated March 20, 2015 to be effective April 30, 2015. The tenant is also requesting to cancel a Notice to End Tenancy for landlord's use of the property; however this was not issued on the approved form so is not effective according to section 52 of the Act. Both parties were present at the hearing.

### **SERVICE:**

I find that the Notice to End a Residential Tenancy was served personally on the Tenant on March 20, 2015. The landlord admitted service of the application for dispute resolution.

**Issues:** Is the tenant entitled to any relief?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. It is undisputed that the tenancy began on June 1, 2014 with a verbal agreement for a month to month tenancy. The rent is \$800 a month and the tenant paid a security deposit of \$400. The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) *The tenant is repeatedly late in paying rent;*
- b) *The tenant or a person permitted on the property by them*
  - (i)has significantly interfered with or unreasonably disturbed another occupant or the landlord;*
  - (ii)seriously jeopardized the safety or physical wellbeing of another occupant or the landlord and put the landlord's property at significant risk.*
- c) *The tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.*

The landlord gave evidence of repeated late payment of rent. The tenant disputed some of the dates the landlord gave but agreed they paid November 2014 rent on November 7, December rent on December 5<sup>th</sup>, January 2015 rent in two payments of

\$400, one on December 19, 2014 in advance and the second on January 8, 2015, February's rent on February 3, 2015 and March's rent on March 3, 2015. The tenants said the landlord agreed to accept rent late because of the pay periods of the male tenant. The landlord disagreed and said rent was payable on the first of the month.

Although a number of other causes were cited in the Notice, I informed the parties that only one cause was needed to end the tenancy pursuant to section 47; there was sufficient evidence on the first cause so it was not necessary to hear all the other evidence which involved many personal complaints.

The landlord requested an Order of Possession if the tenant is not successful in this hearing.

In evidence are statements of the tenant, two ineffective Notices to End Tenancy, one Notice to End Tenancy in the approved form, an account history and some photographs.

On the basis of the documentary and sworn evidence a decision has been reached.

**Analysis:**

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The *Residential Tenancy Act* permits a tenant to apply to have the Notice set aside where the tenant disputes it. The onus of proof is on the landlord to prove on a balance of probabilities that they have good cause to end the tenancy. I find the landlord has proved that the tenant was late in paying rent at least five times since November 2014. Although the tenant's records differed somewhat in dates from the landlord's, I find the tenant's records also showed they were late in paying rent November and December 2014 and in January, February and March 2015. I find Section 26 of the Act states that a tenant must pay rent on time and Policy Guideline 38 of the Residential Policy Guidelines states that 3 late rental payments is sufficient cause to end the tenancy.

I therefore dismiss this application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession.

**Conclusion:**

I grant the landlord an Order for Possession effective April 30, 2015. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application without recovery of the filing fee as they were unsuccessful.

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: April 22, 2015

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Residential Tenancy Branch

