



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

2

## DECISION

### **Dispute Codes:**

OPC,

FF

### **Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Landlord’s agent gave his solemn affirmation to interpret the English language to the Cantonese language and the Cantonese language to the English language to the best of his ability. The Landlord gave affirmed testimony through the interpreter at the Hearing and this matter proceeded on its merits.

### **Preliminary Matter**

The Landlord testified that she mailed the Tenant the Application for Dispute Resolution and hearing package by registered mail on February 6, 2009. The Landlord provided the original receipt for the registered mail package, along with a printout of the Canada Post Tracking system document, which indicates that the Tenant picked up the package from the post office on February 12, 2008. I find that the Tenant was duly served with the Landlord’s application and with notification of today’s Hearing.

This Hearing was set for 1:30 p.m., March 24, 2009, via teleconference. At 1:40 p.m. the applicant had not signed into the teleconference and the Hearing proceeded in her absence.

**Issue(s) to be Decided**

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to recover the cost of filing the application from the Tenant?

**Background and Evidence****Landlord's evidence**

The Landlord provided the following written and oral testimony:

- The Landlord served the Tenant with the 1 Month Notice to End Tenancy for Cause on January 19, 2009, at the Tenant's residential address.
- The Notice to End Tenancy was issued because: the Tenant, or a person permitted on the residential property by the Tenant, has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property; and the Tenant, or a person permitted on the residential property by the Tenant, has seriously jeopardized the health or safety or legal right of another occupant or the Landlord.
- The Landlord provided copies of letters from two other tenants in the rental property indicating that the Tenant has had noisy parties late at night on the following days: November 21 to 22, 2008 (10:00 p.m. to 3:30 a.m.); November 28 to 29, 2008 (11:00 p.m. to 6:00 a.m.); December 26 to 27, 2008 (10:00 p.m. to 8:00 a.m.); and January 17 to 18, 2009 (10:00 p.m. to 5:00 a.m.).
- The Landlord provided a copy of a warning letter dated November 21, 2008 addressed to the Tenant. The letter advises that, pursuant to discussions with the Landlord's agent, the Tenant will be issued a notice to end the tenancy if there are any more complaints about noise coming from the Tenant's suite late at

night. The letter is signed by the Tenant as being received on November 22, 2008.

- The Tenant is still in the rental unit and has not paid rent for the month of March, 2009. The Landlord requested a monetary order for non payment of rent, and to apply the security deposit towards that debt.

### **Analysis**

I accept the Landlord's evidence that she served the Tenant with the Notice to End Tenancy on January 19, 2009. The Tenant did not apply to have the Notice to End Tenancy set aside and is therefore conclusively presumed to have accepted that the tenancy ended on February 28, 2009.

Therefore, pursuant to Section 55 of the Act, the Landlord is entitled to an immediate Order of Possession and I make that order.

The Landlord has been successful in her application and is entitled to recover the filing fee from the Tenant.

The Landlord is at liberty to apply for a monetary order with respect to loss of March, 2009 rent, and the security deposit.

### **Conclusion**

Pursuant to section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 72 of the Act, I grant the Landlord a monetary order for \$50.00 against the Tenant. This order may be served on the Tenant and may be filed in the

Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

March 24, 2009

---

---