



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

CNC, MNDC, FF

### Introduction

This hearing was held in response to the Landlord's Application for Dispute Resolution requesting an order of possession, a monetary Order and filing fee costs.

The Landlord stated that on August 12, 2009 he personally served a female who apparently resides with the Tenant, at the rental unit address, with copies of the Application for Dispute Resolution and Notice of Hearing. The Landlord and Resident Manager each testified that this female had been living at the rental unit for some time and that she had a key to the rental unit. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

### Preliminary Matter

The landlord has served Notice of this hearing to an adult who apparently resides with the Tenant. This method of service, as determined by section 89(2) is sufficient for the purposes of an Application requesting an Order of possession. The Landlord withdrew the portion of his Application requesting a monetary Order.

### Issue(s) to be Decided

Is the Landlord entitled to an Order for possession?

Is the Landlord entitled to filing fee costs?

### Background and Evidence

The Landlord and Resident Manager testified that the Tenant has been given a number of written warnings issued on January 30, March 4, March 5 and June 12, 2009, all outlining problems with the tenancy. The Landlord stated that the Tenant has disturbed other Tenants, allowed people to come and go from the rental unit at all hours of the

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day and appears to be dealing drugs from the rental unit. The Landlord stated, supported by the Resident Manager, that the police have attended at the building to deal with complaints stemming from activity at the rental unit and that other Tenants are concerned for their safety. On June 12, 2009 the Tenant was provided with written warning that a continuation of the problems would result in termination of the tenancy. The Resident Manager testified that last night at least thirty individuals came to the unit at different times of the night.

The witnesses reiterated the concerns detailed by the Landlord.

The Landlord testified that on July 31, 2009 at 11:45 a.m. at the rental unit, a 1 Month Notice to End Tenancy for Cause was served on the female who apparently resides with the Tenant, indicating that the Tenant was required to vacate the rental unit on August 31, 2009. The Landlord testified that when given the Notice the female swore at him.

The reasons stated for the Notice to End Tenancy were that the Tenant has allowed an unreasonable number of occupants in the unit; that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; that the Tenant has seriously jeopardized the health, safety or lawful right of another occupant or the landlord, that the Tenant has put the Landlord's property at significant risk; and that the Tenant has engaged in illegal activity that has, or is likely to, adversely affect the quiet enjoyment, security, safety or well-being of another occupant and that the Tenant has failed to pay a deposit within 30 days as required by the tenancy agreement.

## Analysis

After considering all of the written and oral evidence submitted at this hearing, I find that the Landlord has provided sufficient evidence to show that the Tenant has significantly interfered with or reasonably disturbed another occupant or the Landlord. Further, section 47 of the Act provides:

- (5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant
- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
  - (b) must vacate the rental unit by that date.



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The Tenant is deemed sufficiently served with the Notice to End Tenancy and the Notice of this hearing. I have no evidence before me that the Tenant has made Application to dispute the Notice; therefore, the Tenant is conclusively presumed to have accepted that the tenancy has ended.

As the Landlord's Application has merit I find the Landlord is entitled to filing fees costs paid.

## Conclusion

I have determined that the Landlord has satisfied the legislative requirements to end a tenancy for cause. Further, the Tenant has failed to dispute the Notice and is conclusively presumed to have accepted that the tenancy has ended. Therefore, I grant the Landlord an Order of Possession, effective two days after service. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a total monetary claim of \$50.00 comprised of the \$50.00 fee paid for this application and I grant the Landlord an order under section 67 in that amount. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlord has withdrawn the request for a monetary Order and is at liberty to make further application.

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: September 29, 2009.

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Dispute Resolution Officer