



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

### Dispute Codes:

**ET, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The Agent for the landlord stated that he posted copies of the Application for Dispute Resolution and Notice of Hearing to the door of the rental unit at approximately 4 p.m. on February 18, 2010.

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

During the hearing the Application was amended to reflect the two possible names by which the tenant is known. The landlord's agent requested that the tenant's name be amended to include a spelling by which the tenant is also known.

### Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to filing fee costs?

## Background and Evidence

The tenant is renting a single family dwelling which is situated next to a business. The landlord's agent testified that the tenant is renting at least three different homes at the same time, and that he has used the home as a base for prostitution and drug dealing.

The landlord's witness provided the following affirmed testimony:

- That surveillance by the Community Policing team confirmed reports by neighbours that suspected criminal activity was occurring at the house, consisting of numerous individuals entering the home at all times of the day and night and exiting the home very shortly afterward;
- On January 28, 2010, a Controlled Drug Substances search warrant was executed at the rental home;
- That the tenant was observed driving by the home and did not enter;
- That ten people were found in the home and that these individuals were sex trade workers and others known to the police and that two of the males had outstanding warrants for their arrest;
- That the tenant had installed video cameras inside the home that allowed surveillance of the outside of the house;
- That the front door was barricade by a board and 2X4;
- That one room was being used as a drug room and that another room had used hypodermic needles visible all over the room;
- That a prohibited weapon was found in a purse belonging to one of the occupants;
- That within several days of the warrant execution the drug and prostitution activity had been reestablished at the home;
- That neighbours are complaining of the drug and prostitution activity;
- That the landlord is at risk of facing charges by the City of Surrey for the police costs incurred;
- That the execution by the RCMP of one search warrant can cost in the range of \$5,000.00 to \$8,000.00 and that a home owner who refuses to adequately respond to criminal activity taking place on their property could be assigned those costs; and
- That any attempt by the landlord to carry out an inspection of the rental unit would likely require police assistance and could place the landlord at risk due to the presence of used hypodermic needles.

The landlord's agent provided the following affirmed testimony in relation to this tenancy:

- That the warrant execution by the RCMP confirmed concerns in relation to criminal activity at the rental unit;
- That the landlord requested police assistance on February 26, in order to inspect the rental unit, after giving written notice, and that the rental home has been damaged, including:
  - barricaded and damaged doors,
  - damaged laundry machines that had been moved to block an exit,
  - holes in the walls,
  - presence of hypodermic needles throughout the house,
- That the police have attended due to reports by neighbours of drug and prostitution activity since the tenant moved in on December 5, 2009;
- That the neighbouring business has expressed concerns that their patrons are being harassed by prostitutes who exit from the house;
- That the landlord is fearful of civil action unless he can obtain possession of the home and cease the criminal activity that is occurring on the property.

### Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that he has cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord's agent and his witness, I find that the landlord has met that burden.

In relation to sufficient cause, I find that the level of illegal activity occurring within the home is likely to jeopardize the landlord's lawful rights and interests. The landlord's home has been subject to the execution of a search warrant, where criminal activity was confirmed, with multiple occupants present, all of whom were known to the police. The disturbances created by the tenant and the occupants of the home have had an impact on the neighbours and, despite a search warrant execution, within several days the criminal activity had resumed.

I also find that a failure of the landlord to respond to the presence of this level of criminal activity on his property could place the landlord in jeopardy of the imposition of policing costs and possible civil action by a neighbouring business, which is reported to have found the activity originating from the home a threat to their customers.

Secondly, in the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47 and therefore I find that the landlord is entitled to an order for possession. A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

As the landlord's Application has merit I find that the landlord is entitled to the sum of \$50 being the cost of the filing fee paid pursuant to section 72(1).

Conclusion

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. 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 monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution and I grant the landlord a monetary Order in that amount. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and 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: March 02, 2010.

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Dispute Resolution Officer