

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession and for authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she handed the tenant a 1 Month Notice to End Tenancy for Cause on July 31, 2010. She said that she handed the tenant a copy of her application for dispute resolution on September 3, 2010. I am satisfied that the landlord served the tenant with these notices in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to obtain an order of Possession? Is the landlord entitled to recover her filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that she cited the following reasons in her 1 Month Notice to End Tenancy for Cause:

- Tenant has allowed an unreasonable number of occupants in the unit/site.
- Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
- Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord entered written evidence from police incident reports and from neighbours who live beside and across from the tenant. The landlord testified that the tenant has a steady stream of individuals visiting the rental unit late into the night. She said that the

tenant is involved in frequent late night parties, noise and disturbance. She maintained that there is evidence of drug use at the premises and is concerned that the premises may be used for prostitution activities. She said that both she and the neighbours are concerned for their safety as a result of this tenancy. She also testified that the tenant allows at least one extra occupant to live on the premises. She said that others also stay there for several nights consecutively.

The landlord entered written evidence that she has been accepting the tenant's rent cheques for use and occupancy only. She requested an Order of Possession effective October 31, 2010.

### Analysis

Based on the undisputed testimony of the landlord, I am satisfied that the landlord was justified in issuing the 1 Month Notice to End Tenancy for Cause for the tenant's significant interference with or unreasonable disturbance of another occupant or the landlord. I also accept the landlord's undisputed evidence that the tenant has seriously jeopardized the health or safety of another occupant or the landlord.

The tenant failed to file an Application for Dispute Resolution with the Residential Tenancy Branch pursuant to section 47(4) of the *Act* within ten days of receiving the landlord's notice to end tenancy. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of her tenancy on the August 11, 2010. As that has not occurred, I find that the landlord is entitled to an Order of Possession to take effect on or before one o'clock in the afternoon on October 31, 2010. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit on or before October 31, 2010, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord has been successful in her application for dispute resolution, I issue a monetary Order in the landlord's favour in the amount of \$50.00 to allow for the recovery of her filing fee from the tenant.

Conclusion

The landlord is provided with a formal copy of an Order of Possession effective October 31, 2010. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I allow the landlord to recover her filing fee for this application from the tenant. I issue a monetary Order in the amount of \$50.00 in the landlord's favour. The tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.