



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPC, FF, O

### Issue(s) to be Decided

This matter dealt with an application by the Landlords for an Order of Possession, to recover the filing fee for this proceeding and for other considerations.

The Landlords said they served the Tenant with the Application and Notice of Hearing (the "hearing package") by posting it on the Tenant's door on November 3, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started in August, 2009 as a verbal tenancy on a month to month basis. Rent is \$450.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$225.00 in August, 2009.

The Landlord said the Tenant has broken several material terms of their verbal tenancy agreement and as result the Landlord served the Tenant with a 1 Month Notice to End Tenancy for Cause dated November 3, 2010. The Landlord said the Tenant has changed the locks on the unit and has not given the Landlord a key that works in the new locks. As well the Landlord said the Tenant will not give the Landlord the right of entry to the rental unit.

In addition the Landlord said that the Tenant has been subletting the rental unit to additional occupants. The first occupant resided in the rental unit for approximately 2 1/2 to 3 months in the summer of 2010. The second occupant has occupied the rental unit from the middle of November, 2010 to the present time and a third female occupant was in the unit for approximately 1 month starting in the middle of November, 2010. The Landlord said the Tenant agreed to only one occupant in the rental unit (himself) when he moved into the unit. The Landlord continued to say that the Tenant was collecting rent from each on the persons who were living in the unit. The Landlord said

he had confirmed this with the occupant that had lived in the unit during the summer of 2010 for 3 months.

The Landlord continued to say that they have called the police 3 times to investigate the Tenant's activities with regard to incidents that the Landlord believes are illegal acts that the Tenant is involved with. The Landlord said the police told him there is nothing to be done without proof of something illegal happening. The Landlord said he has no proof at this time, but he said it is disturbing to him and his family as the incidence happen late at night. The Landlord said he has told the Tenant there is no noise allowed between 10:00 pm and 10:00 am and the Landlord said the Tenant ignores this request.

The Landlord also said that they believe there is considerable damage to the rental unit as they saw into it in November, 2010 while doing repairs to the furnace. The Landlord said he saw holes in the walls and damage to the floors. The Landlord said he is very concerned that he cannot get into the unit to check if the rental unit is damaged.

## Analysis

Section 31 (2) of the Act says a tenant must not change locks or other means that give access to common areas of residential property unless the landlord consents to the change and Section 31(3) says a tenant must not change a lock or other means that gives access to his or her rental unit unless the landlord agrees in writing to, or the director has ordered, the change.

Section 47 of the Act says a landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- (c) there are an unreasonable number of occupants in a rental unit;
- (d) the tenant or a person permitted on the residential property by the tenant has
  - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- h) the tenant
  - (i) has failed to comply with a material term



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I have reviewed the evidence submitted by the Applicant and heard the affirmed testimony given by the Applicant in the absence of evidence from the Respondent as the Respondent did not attend the hearing although served in accordance to the Act.

I accept the Landlord's testimony and evidence that the Tenant has breached a material term of the tenancy by changing the locks on the rental unit without written consent from the Landlord. As well I find, the Tenant has restricted the right of entry of the Landlord by changing the locks and not providing the Landlord with a key.

In addition, I find that the Tenant has had an unreasonable number of occupants in the rental unit for an unreasonable period of time. The Landlord said the Tenant agreed the rental unit was for one person (himself) when the tenancy started, therefore the additional persons that have lived in the unit during the summer of 2010 and from November, 2010 to the present represent a material breach of the tenancy agreement. I find for the Landlord and uphold the Notice to End Tenancy dated November 3, 2010. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep \$50.00 of the Tenant's security deposit to recover the filing fee for this proceeding.

## Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: January 10, 2011.

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Residential Tenancy Branch