



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for Cause, and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord to the Tenants, was done in accordance with section 89 of the *Act*, served personally to the male Tenant on February 18, 2011 at 4:15 p.m. in the presence of a witness. The Tenant testified and confirmed receipt of the hearing documents and receipt of approximately 21 pages of evidence.

The parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

### Issue(s) to be Decided

1. Has the Landlord met the burden of proof to end this tenancy for cause and obtain an Order of Possession?
2. Have the Tenants made application to cancel the Notice to End Tenancy?

### Background and Evidence

I heard undisputed testimony that the parties entered into a written month to month tenancy agreement effective June 1, 2010. Rent is payable on the first of each month in the amount of \$700.00 and on June 1, 2010 the Tenants paid \$350.00 as a security deposit.

The Landlord testified that after their last dispute resolution proceeding on January 7, 2011, the Tenants continued to make noise until 1:00 a.m. the next morning. She thought they were celebrating that they were successful with the hearing. The noise did not end though and continued on a regular basis. So on January 17, 2011 a warning

letter was posted to their door. Then another warning letter was posted on January 27, 2011 which was returned to the Landlord written on with red ink and has been supplied in the Landlord's evidence. That same evening the Tenant left a message on the Landlord's voice mail and a copy of the transcription is provided in evidence.

She stated the police advised that they should proceed with requesting an Order of Possession. So on January 29, 2011 a 3<sup>rd</sup> written warning letter was given to the Tenants along with another 1 Month Notice to End Tenancy for Cause which were served to the Tenant in person on January 29, 2011 in the presence of a witness. When the last Notice was served to the Tenant he told them he will not be leaving and he demanded a couple thousand dollars to come to an agreement for him to leave.

The Tenant testified most of the Landlord's written evidence is contrived and false, in his opinion. He stated that he did not know the Landlord had an Order of Possession so he would like to request a copy of it. I explained that this hearing was convened to hear the Landlord's request for the Order of Possession and that it had not been issued as of yet.

The Tenant stated the Landlord insists he is going to cause her harm and is causing intentional noise which is false. He stated that even though they did not dispute the matter the Landlords are threatening him. He is in the process of moving and he hopes to be completely out of the unit by tonight or tomorrow. After I reviewed his testimony the Tenant stated he feels he did not receive a resolution to their previous dispute. He acknowledges receipt of documents but he does not acknowledge the issues. While he acknowledges there is some underlying issues he questions the validity. He requested that I send my decision to the address of the rental unit as he will be providing the Landlord with his forwarding address to send his mail to.

### Analysis

Upon careful review of the 1 Month Notice to End Tenancy, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenants in a manner that complies with the Act.

The Tenants did not make application to dispute the Notice. Based on the foregoing, I find that the Tenants are conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and I hereby grant the Landlord an Order of Possession.

The Landlord has been successful with her application, therefore I award recovery of the \$50.00 filing fee.

Conclusion

The Landlord's decision will be accompanied by an Order of Possession, effective **February 28, 2011, at 1:00 p.m.** This Notice must be served upon the Tenants and may be filed in Supreme Court and enforced as an Order of that Court.

The Landlord may retain \$50.00 from the Tenants' security deposit as satisfaction for this one time monetary award.

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: February 28, 2011.

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Residential Tenancy Branch