

## DECISION

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:43 p.m. in order to enable the tenant to connect with 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 (the Notice) on January 24, 2011. The landlord's other representative at this hearing, the building manager, witnessed the service of this Notice. The landlord provided written evidence that she sent the tenant a copy of the dispute resolution hearing package by registered mail on March 2, 2011. She provided a copy of the Canada Post Tracking Number to confirm this mailing. I am satisfied that both documents were served to the tenant in accordance with the *Act*.

### Issues(s) to be Decided

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

### Background and Evidence

This one-year fixed term tenancy commenced on December 1, 2010. Monthly rent was set at \$1,095.00, payable on the first of each month. The landlord said that she continues to hold the tenant's \$547.50 security deposit paid on December 1, 2010.

The landlord entered into written evidence a copy of the Notice which identified the following reasons for issuing this Notice:

*Tenant has allowed an unreasonable number of occupants in the unit/site.*

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*

- *put the landlord's property at significant risk.*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.*

*Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord requested an Order of Possession and recovery of the filing fee from the tenant.

### Analysis

The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the Notice. 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 his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 28, 2011. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. 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 within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee for this application. To implement this recovery, I direct the landlord to retain \$50.00 from the tenant's security deposit. This reduces the value of the retained portion of the tenant's security deposit to \$497.50.

### Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). 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 the filing fee for this application by deducting \$50.00 from the tenant's security deposit. The remaining portion of the tenant's security deposit retained by the landlord is now set at \$497.50.

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*.