



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute Codes:

OPC, FF

### Introduction

The hearing was scheduled in response to an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Cause and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

### Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for Cause and to recover the fee for filing the Application for Dispute Resolution, pursuant to sections 55 and 72 of the *Act*.

### Background and Evidence

The Landlord and the Tenant agree that this tenancy began in April of 2010 and that the Tenant is required to pay rent of \$730.00 by the first day of each month.

The female Agent for the Landlord stated that she personally served the Tenant with a One Month Notice to End Tenancy for Cause on February 01, 2011. The Tenant stated that she found the One Month Notice to End Tenancy for Cause under her door on February 02, 2011 or February 03, 2011.

The One Month Notice to End Tenancy for Cause, which was submitted in evidence, declared that the Landlord was ending the tenancy because the tenant or a person permitted on the property has significantly interfered with or unreasonably disturbed another occupant or the landlord; the tenant or a person permitted on the property has seriously jeopardized the health or safety of another occupant or the landlord; and the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after receiving written notice to correct the breach. The Notice declared that the Tenants must vacate the rental unit by February 28, 2011.

The Notice to End Tenancy for Cause informed the Tenant that they must move out of the rental unit by the date set out on the front page of the Notice if they do not dispute the Notice within ten days of receiving it.

The Tenant stated that she did not file an Application for Dispute Resolution disputing the Notice to End Tenancy. The reasons for ending this tenancy were not discussed at the hearing due to the fact that the Tenant did not file an Application for Dispute Resolution disputing the Notice.

The Landlord declined the Tenant's request to extend this tenancy to April 30, 2011.

### Analysis

Based on the evidence presented at the hearing, I find that the Landlord and the Tenant entered into a tenancy agreement that required the Tenant to pay rent of \$730.00 by the first day of each month.

Based on the evidence presented at the hearing, I find that the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause, served pursuant to section 47 of the *Act*, which was received by the Tenant sometime between February 01, 2011 and February 03, 2011.

Section 47(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant accepted that the tenancy ends on the effective date of the Notice to End Tenancy, pursuant to section 47(5) of the *Act*. On this basis, I find that the Landlord is entitled to an Order of Possession.

Section 47(2) of the *Act* stipulates that a One Month Notice to End Tenancy for Cause must end the tenancy on a date that is not earlier than one month after the date the notice is received and the day before the day in the month that rent is payable under the tenancy agreement. As the Tenant received this Notice on, or after, February 01, 2011, and rent is due on the first of each month, the earliest effective date of the Notice is March 31, 2011.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy is March 31, 2011.

I decline to award the Landlord compensation for the cost of filing this Application for Dispute Resolution, as I find there is insufficient evidence to establish that the Tenant will not vacate the rental unit at the end by the effective date of the Notice to End Tenancy, in which case the Landlord would not require an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on March 31, 2011. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, 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 17, 2011.

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Residential Tenancy Branch