



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Cause and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a room in a multi unit complex. In his documentary evidence, the landlord provided four incidents reports concerning the tenant's actions as follows:

- April 4<sup>th</sup>, 2011: Tenant slamming the lobby door repeatedly, screaming at staff and down the hallway. Police officers were called to calm the tenant down.
- March 26<sup>th</sup>, 2011: Tenant smashed a hallway window. Police officers were called and removed tenant.

- September 18<sup>th</sup>, 2010: Tenant verbally abusive and threatening other tenants. Police officers were called and removed tenant.
- Undated report: Tenant throwing items out of his window into the street including a television. Police was called several times as other tenants fear for their safety.
- August 6<sup>th</sup>, 2010: Tenant threw glass and a television out of his window and threatened passer-bys on the street. Police officers were called.

The landlord testified that on November 16<sup>th</sup>, 2010 the previous property manager served the tenant in person with the 10 Day Notice to End Tenancy, and that he is currently in another room and available to present evidence. The landlord stated that the tenant has been given ample opportunity since the notice was issued to correct his behaviour. He said that the tenant however has not changes and that the tenant continues to disturb other tenants and the staff on a daily basis with kicking doors, overturning newspaper boxes and screaming throughout the night.

The tenant testified that he received the notice of dispute resolution 2 weeks ago and did not have time to prepare for the hearing. He stated that he did not agree with the landlord's allegations, and that the broken window incident was an accident.

### Analysis

Section 47(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy with cause does not make an application for dispute resolution within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Section 59(3) of the Act provides that a party applying for dispute resolution must serve a copy of the application to the other party named in the dispute within 3 days of making it. By his own testimony I find that the tenant was served properly and had plenty of time to prepare for this hearing.

The tenant did not file for dispute resolution. Based on the evidence and his testimony, I find that the landlord had grounds to serve the tenant with a 1 Month Notice to End Tenancy and that the notice is valid. Accordingly, the landlord is entitled to an Order of Possession.

### Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

Since the landlord was successful, he is entitled to recover the filing fee by deducting \$50.00 for the tenant's security deposit.

This Order may be filed in 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: April 14, 2011.

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Residential Tenancy Branch