



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Code:** ET

### **Introduction:**

This is the Landlord's application for an early end to the tenancy and an Order of Possession.

Both parties signed into the teleconference and gave affirmed testimony at the Hearing.

The Landlord's agent JF testified that he personally served the Tenant with the Notice of Hearing and copies of his documentary evidence on August 20, 2011, at 10:10 a.m.

### **Issue to be Determined:**

Has the Landlord shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy under the *Residential Tenancy Act* (the "Act") to take effect?

### **Background and Evidence:**

The parties entered into a tenancy agreement on June 9, 2011. A copy of the tenancy agreement was entered in evidence. This is a month-to-month tenancy, which commenced on July 1, 2011. The rental unit is a bachelor suite in an apartment building.

#### **The Landlord's agents gave the following testimony:**

The Landlord's agent JF testified that he started receiving noise complaints from the Tenant's neighbours immediately after the tenancy began. He provided written testimony from 4 of the Tenant's neighbours alleging loud music and partying from the rental unit, until 2, 3 and 4 in the morning. The neighbours also write that they feel for their safety because of threats from the Tenant's guests.

The Landlord's agent testified that the behaviour is escalating, that police have been called to the rental unit 6 times since August 5, 2011. For example, on August 9, 2011,

one of the neighbours saw a young man with a baseball bat enter the rental unit and heard things being smashed inside the rental unit.

On August 10, 2011, a different neighbour saw three young men, the Tenant's guests, trying to climb up to gain access to the electrical room at the rental property. The Landlord provided a written statement from that neighbour, which states that the young men were seen with a container of liquid which was on fire. The young men dropped the container and fled when the neighbour saw them.

The Landlord's agent testified that another neighbour, a man who is mentally challenged, filed a police report against one of the Tenant's guests. The neighbour told police that the Tenant's guest told him he was a fortune teller and that he needed to see the neighbour's ID in order to tell him his fortune. The neighbour told police that the Tenant's guests stole his bank card and PIN number and withdrew money from his bank account. The Landlord's agent stated that the Tenant's guest made an admission to the police that he had done so.

The Tenant gave the following testimony:

The Tenant stated that none of the Landlord's allegations are true. She stated that she is the one that is being harassed by the other tenants in the building. The Tenant denied that anyone was living with her. She stated that the young men are her invited guests and that she was not there when any of the alleged incidents happened.

The Tenant testified that on August 10, 2011, she and her guests were looking for recycling materials so they could buy cigarettes. She stated that her guests saw a bottle on the roof of the rental property and that they also found a candle on the roof. She stated that this is what the neighbour saw and that there was no fire.

The Tenant testified that her guest did not steal her neighbours ID. She stated that her guest told the neighbour he needed his bank number and his favourite colour so he could tell him his fortune and that the neighbour gave it to him. The Tenant stated that she does not know if her guest stole money from the neighbour's bank account because she was not there.

**Analysis:**

In making an application for an early end to this tenancy the Landlord has the burden of proving that there is cause for ending the tenancy early, such as unreasonably disturbing other occupants; seriously jeopardizing the health and safety or lawful right or

interest of the landlord or another occupant; and engaging in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant, or has jeopardized a lawful right or interest of another occupant. The Landlord must also satisfy me that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under Section 47 of the Act to take effect.

I accept the Landlord's agent's testimony and the Landlord's documentary evidence that the Tenant and people invited to the rental unit by the Tenant have unreasonably disturbed other occupants. I also accept the Landlord's agent's testimony with respect to the incident on August 10, 2011, and the incident of theft from another occupant by one of the Tenant's guests. A Tenant is responsible for the actions of her invited guests. Based on the affirmed testimony of the Landlord's agents and the documentary evidence of the Landlord, I am satisfied that the Landlord has proven that the Tenant's invited guests have seriously jeopardized the health and safety or lawful right or interest of the Landlord or another occupant; and engaged in illegal activity that has adversely affected the security of another occupant and that it would be unreasonable or unfair to the Landlord and the other occupants of the building to wait for a one month Notice to End Tenancy for cause to take effect.

I order that the end-of-tenancy date is today, August 29, 2011, and find that the Landlord is entitled to an Order of Possession effective **1:00 p.m., August 29, 2011.**

**Conclusion:**

I hereby provide the Landlord an Order of Possession effective **1:00 p.m., August 29, 2011.** This Order must be served on the Tenant and 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: August 29, 2011.

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Residential Tenancy Branch