



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

CNC, CNR, MNDC

### **Introduction**

This Hearing was scheduled to hear the Tenants' application to cancel two One Month Notices to End Tenancy for Cause and a 10 Day Notice to End Tenancy for Unpaid Rent; and for compensation for damage or loss under the Residential Tenancy Act (the "Act"), regulation or tenancy agreement.

Both parties gave affirmed testimony at the Hearing.

### **Background and Evidence**

The Landlord testified that this tenancy began on May 28, 2011. The Tenant testified that the tenancy began on May 29, 2011. Both parties agreed that monthly rent is \$1,000.00 due on the first day of each month. The rental unit is a basement suite in a house. The Landlord lives on the main floor.

The Landlord testified that the Tenants did not pay rent on August 1, 2011, and he issued a Notice to End Tenancy for Unpaid rent on August 3, 2011. A copy of the Notice was provided in evidence.

The Landlord testified that he attempted to give the Tenants the Notice on August 3<sup>rd</sup> at the rental unit, but they would not answer the door, so he posted it to the door at the rental unit. The Landlord stated that the Tenants remain in the rental unit and have not paid any rent for the month of August, 2011.

The Tenant JC testified that he paid rent for August and that he has a receipt to prove it. He stated that the Landlord provided me a copy of that receipt in his evidentiary

material. The Landlord stated again that the Tenant did not pay any rent for August, 2011.

The Tenant testified that he attempted to pay the Landlord \$330.00 in cash within the 5 days allowed by the 10 Day Notice to End Tenancy, but that the Landlord refused to accept the money. The Tenant testified that \$330.00 was all that the Landlord was entitled to for rent for the month of August, pursuant to his interpretation of the Act. The Landlord denied that the Tenant had attempted to pay him any money whatsoever for the month of August, 2011.

The Landlord testified that he issued a One Month Notice to End Tenancy for Cause on July 26, 2011, and hand delivered that Notice to the Tenants on July 26, 2011. A copy of that Notice was provided in evidence. The Notice alleges that the Tenant or a person permitted on the property by the tenant has: significantly interfered with or unreasonably disturbed another occupant or the Landlord and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord. It further alleges that the 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.

The Landlord testified that the City where the rental unit is located had provided him with a letter on July 28, 2011, indicating that the rental unit was a secondary suite and that it was prohibited by their By-laws. The letter ordered him to remove the illegal suite by August 31, 2011. The Landlord testified that he had provided the Tenant with a copy of the letter. A copy of the letter was provided in evidence.

The Landlord testified that he issued another One Month Notice to End Tenancy for Cause on July 28, 2011, and hand delivered it to the Tenants on July 28, 2011. A copy of that Notice was also provided in evidence. It alleges the same causes for ending the tenancy as the Notice issued July 26, 2011, and in addition: the rental unit must be vacated to comply with a government order.

The Tenant testified that the Landlord told him that the suite was a legal suite. He stated that when he went to the City to obtain a building permit, he was advised that the

rental unit was an illegal suite. The Tenant testified that he had placed a builder's lien on the rental property for unpaid wages in the amount of \$1,000.00. The Tenant seeks a monetary award against the Landlord for unpaid wages.

The Tenant stated that the Landlord had misrepresented the rental unit at the beginning of the tenancy and he is seeking damages. He stated his intent was to live in the rental unit for 3 to 5 years.

The Landlord asked for an Order of Possession.

The Tenant stated that I could not provide the Landlord with an Order of Possession, made some inappropriate remarks about me, and exited the call before the conference was concluded.

### **Analysis**

During the course of the Hearing, I explained to both parties that builder's liens and employment contracts are not matters that can be determined by a Dispute Resolution officer as they are not within the jurisdiction of the Residential Tenancy Act. Therefore the Tenant's application for compensation for unpaid wages is dismissed.

The Tenant led no evidence on his relevant monetary claims and exited the call before the conference was concluded. Therefore the remainder of his monetary claim is also dismissed without leave to reapply.

The One Month Notice to End Tenancy issued July 28, 2011, includes an allegation that the rental unit must be vacated to comply with a government order. The Landlord provided a copy of that government order. Section 47(1)(k) of the Act provides that a landlord may end a tenancy by giving notice to end the tenancy if the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal authority. Based on the testimony and evidence provided, I find that the Notice to End Tenancy issued July 28, 2011 is a valid notice and dismiss the Tenants' application to cancel it.

Having found that the Notice dated July 28, 2011, is a valid notice I make no further findings with respect to the other two Notices to End Tenancy.

Section 55(1) of the Act states:

**Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

(emphasis added)

Based on the undisputed testimony of the Landlord, I am satisfied that the Tenants received the One Month Notice to End Tenancy on July 28, 2011. I find that the effective date of the end of the tenancy is August 31, 2011. Further to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., August 31, 2010.**

**Conclusion**

The Tenants' application is dismissed in its entirety.

I hereby provide the Landlord an Order of Possession effective **1:00 p.m., August 31, 2011**. This Order must be served on the Tenants 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 31, 2011.

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Residential Tenancy Branch