



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for cause and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by posting it on the tenant's door with a witness. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Background and Evidence

On June 13, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified that the tenant has repeatedly been very disruptive, threatening and verbally abusive to staff, their family members and tenants as he yells and screams out his window and swears at and intimidates staff, their family members and tenants. The landlord stated that the tenant has physically attacked other tenants and has been physically removed from the property twice by the police.

The landlord stated that they have received numerous complaints regarding the tenants behaviour and that other tenants in the building have been repeatedly disturbed by the loud screaming coming from the tenants unit which can be heard from the building parking lot. The landlord testified that both staff and tenants are afraid of the threat of physical assault by tenant.

The landlord has submitted evidence that shows that the tenant has been repeatedly warned about his behaviour and was served with warning letters on April 7 and April 18, 2011. The landlord also met with the tenant on April 18, 2011 to discuss his behaviour, inform him he was in breach of clause #21 of the tenancy agreement 'Conduct' and that he would be served a notice to end tenancy if his behaviour was not corrected.

The landlord referred to specific incidents that took place on June 6, 10, 11 and 12, 2011 when the tenant was screaming at and threatening staff and other tenants at the rental property. The landlord stated that there had been another incident involving the tenant as recently as September 2, 2011.

The landlord stated that she spoke to the tenant yesterday, reminded him of today's hearing and let him know that this was a conference call and he simply had to call in to the hearing at the designated time.

The landlord in this application is seeking an order of possession for the rental unit.

### Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for cause. The tenant did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession for cause.

The landlord has provided evidence regarding the tenant's behaviour and that the tenant has been in breach of the tenancy agreement as he has and continues to cause unreasonable and/or excessive noise or disturbances in his rental unit and on the rental property. The tenant has also exhibited threatening behaviour towards staff and tenants and physically assaulted other tenants on the property.

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant must apply for dispute resolution. If the tenant fails to file to dispute the notice, then under section 46(5)(a)(b) of the Act they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I hereby grant the landlord an **Order of Possession**, effective **1 day** after service of the Order upon the tenant. 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.

The landlord is also entitled to recovery of the \$50.00 filing fee and I grant the landlord a monetary order under section 72 for the amount of **\$50.00**.

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: September 8, 2011

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Residential Tenancy Branch