



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Cause.

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. R.P. the tenant's daughter stated that she would speak on behalf of her 80 year old father who has a hearing disability. She stated that she contacted the Residential Tenancy Branch to request a face to face hearing. No notices were sent concerning any change; R.P. was ready to present on her father's behalf and the hearing proceeded as scheduled. R.P. also stated that she sent by email and fax a package of evidence on September 26<sup>th</sup>, 2011; she stated that it was sent late because she only had recent knowledge of this hearing. The landlord acknowledged receipt of the tenant's evidence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The rental unit consists of an apartment in a multi-unit complex for senior citizens. Pursuant to a written agreement, the month to month tenancy started on April 1<sup>st</sup>, 2009 and the rent is \$474.00.

The landlord testified that the tenant allows visitors at all hours of the night, accessing the complex through windows or with their own keys; that they shout, scream, use the laundry facilities, fight and disturb other tenants.

In his documentary evidence, the landlord provided a chronological summary of incidents, in which he states that the tenant does not maintain reasonable health, and sanitary standards, which resulted in the unit needing to be cleaned and fumigated for cockroaches. The landlord also provided 7 photographs in support of his testimony regarding the condition of the unit, and a copy of the 10 Day Notice to End Tenancy. The landlord stated that the tenant acknowledged receipt of the notice on July 20<sup>th</sup>, 2011.

R.P testified that her father is not responsible for any of the landlord's allegations; and that another tenant had been evicted in connection with the problems created by unwanted visitors at the complex. She did not disagree with the sanitary standards and agreed that her father needs assistance in that respect; she said that since the family is now aware, steps have been taken to resolve that problem. She stated that the landlord has no evidence because he has not witnessed the incidents himself, and questioned the landlord for not calling the police when they occurred.

During their testimony, the parties were provided an opportunity to exchange views and to resolve this dispute informally; however an informal resolution was not achieved.

### 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. The tenant in this matter has not filed an application for dispute resolution.

On that basis alone I have no legal authority to deny the landlord's entitlement to an Order of Possession as claimed.

Conclusion

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

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: September 29, 2011.

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Residential Tenancy Branch