



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by the tenant's agent and witness and two agents for the landlord.

The landlord verbally requested an order of possession should the tenant not be successful in his Application to cancel the notice.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 1 Month Notice to End Tenancy for Cause, pursuant to Section 47 of the *Residential Tenancy Act (Act)*.

It must also be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on March 1, 2009 for a month to month tenancy beginning on March 1, 2009 for the monthly subsidized rent of \$510.00 due on the 1<sup>st</sup> of each month and a security deposit of \$375.00 was paid;
- A copy of a 1 Month Notice to End Tenancy for Cause that was issued on July 26, 2011 with an effective vacancy date of August 31, 2011 citing the tenant has caused extraordinary damage to the unit;
- Copies of individual invoices, each stating failure to pay the "invoice may place your tenancy in jeopardy" from the landlord to the tenant for the work replacing the door and frame work; a statement of account stating the tenant must pay for the repairs in the amount of \$646.09; and
- A copy of a letter dated June 16, 2011 advising the tenant of his obligations under the tenancy agreement to make the payment and that failure to make arrangements to pay the outstanding amount could result in the landlord taking actions to end of the tenancy or seek arbitration for the cost of repairs or both.

The landlord testified that on March 21, 2011 the tenant broke down the door to his rental unit and as this resulted in the rental unit not being secure, the landlord had the door, door frame, and hardware repaired. The landlord testified the landlord attempted to have the tenant pay the costs but to date the tenant has failed to do so.

The landlord testified that when the tenant was seen on July 12, 2011 the tenant informed the landlord that he had no intention of paying the landlord any costs associated with repairs to the door.

The landlord then issued the 1 Month Notice to End Tenancy for Cause on August 26, 2011 and it served it to the tenant on the same day by delivering it under the door of the rental unit.

The tenant's agent testified that the tenant did not want to pay the landlord for two reasons:

1. The landlord had not provided an invoice with a breakdown of costs – only a full total; and
2. There had been pre-existing damage to the door that predated the tenancy and the tenant does not feel he should have to pay for this.

The tenant's agent also testified that he spoke to the tenant within the last couple of weeks and the tenant has offered to pay half of the costs for the repair. The landlord testified this offer was never made to the landlord. The landlord was not willing to accept this offer during the hearing.

The tenant's agent testified that he has requested a breakdown of the invoices from the landlord and the landlord has failed to provide this breakdown. The landlord testified he had not received this request but will provide this to the agent as soon as possible.

The landlord testified that these concerns had never been discussed with the landlord at any time prior to this hearing and in fact the tenant had specifically said that he was not going to pay the landlord anything.

The tenant's witness testified that shortly after the incident she had offered to pay the landlord for the costs associated with the repairs but that the landlord did not take her up on this. The witness acknowledged that the tenant received the letter from the landlord but that she did not discuss the matter with the landlord after this letter was received by the tenant.

### Analysis

Despite the tenant's assertion that there was pre-existing damage to the door the tenant's agent does not dispute the tenant damaged the door on March 21, 2011.

Section 32 of the *Act* requires a tenant to repair damage to the rental unit that is caused by the actions of the tenant.

As the repair required was to the access door to the rental unit the landlord made the repairs under Section 33 of the *Act* or as an emergency repair as the repair was urgent, necessary for the safety of anyone or for the preservation or use of the property and made for the purposes of repairing damage or defective locks that give access to a rental unit.

After the emergency repairs were completed the landlord sought to have the tenant fulfil his obligations under Section 32 by paying for the repair. I accept the landlord provided the tenant with ample time to make payment or payment arrangements with the landlord. I also accept the landlord provided the tenant with adequate warning on the consequences of failing to follow through with the payment.

I accept the testimony of both parties that confirms the tenant made no attempts to either pay or discuss payment with the landlord until the tenant informed his agent a couple of weeks ago, after the effective date of the notice, that he would be willing to pay half the costs, but that this offer was never made to the landlord until this hearing.

Based on the above, I find the tenant failed to take any actions to resolve the matters related to the reasons why the landlord issued the 1 Month Notice to End Tenancy and despite several adequate warnings that his tenancy was in jeopardy, as such I dismiss the tenant's Application in its entirety.

### Conclusion

Based on the above, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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 13, 2011.

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Residential Tenancy Branch