



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, LRE

### Introduction

This matter was set for hearing at 11.00 a.m. on this date to hear the tenant's application disputing an additional rent increase and seeking an Order to suspend or set conditions on the landlords' right to enter the unit. Since the applicant did not appear at the hearing by 11:10 a.m., but the respondent did appear and was ready to proceed, I dismissed the tenant's application without leave to reapply pursuant to rule 10.1 of the Residential Tenancy Branch *Rules of Procedure*.

The tenant provided a copy of a One Month Notice to End Tenancy for cause in his documentary evidence. At the hearing the landlord sought an Order to have the One Month Notice upheld and request an Order of Possession as the tenant has not disputed the One Month Notice to End Tenancy in this application.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Analysis

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result his application has been dismissed.

Section 55 (2)(b) of the *Act* provides that a landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

- (b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

Section 55 (4) of the *Act* states: Despite section 61 [*setting down dispute for hearing*], in the circumstances described in subsection (2) (b), the director may, without holding a hearing, grant an order of possession.

The landlord did make an oral request for an Order of Possession to the rental unit. Therefore, I grant the landlord's request and have issued an Order of Possession. The landlord states the One Month Notice was served to the tenant in person on August 01, 2011, rent is due on the 31<sup>st</sup> day of each month and effective date of the One Month Notice is August 31, 2011.

Section 47 (2) of the *Act* states: A notice under this section must end the tenancy effective on a date that is

- (a) not earlier than one month after the date the notice is received, and
- (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Consequently, pursuant to s. 53 of the *Act* the effective date of the Notice is amended to September 30, 2011 and the Order of Possession will become effective at 1.00 p.m. on that date.

Conclusion

The tenant's application is dismissed without leave to re-apply.

The landlord has been issued an Order of Possession effective on **September 30, 2011 by 1.00 p.m.** pursuant to section 55(1) of the *Act*. This Order may be filed with 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 07, 2011.

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Residential Tenancy Branch