



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order to end the tenancy early and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by posting the notice on the tenant's door on October 6<sup>th</sup>, 2011, and that the notice was removed two days later. The tenant did not participate and the hearing proceeded in the tenant's absence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of an apartment in a 54 unit complex. The landlord testified that pursuant to a written agreement, the tenancy started on August 24<sup>th</sup>, 2011. The rent is \$1200.00 per month, and the tenant paid the owner of the unit directly with a security deposit of \$600.00.

The landlord testified that the tenant has significantly affected the quiet enjoyment, the safety and well being of the other occupants with loud parties, heavy smashing and banging, and confronting and intimidating other tenants. The landlord stated that the tenant has a girlfriend who also knocks on other tenants' doors. He stated that the tenant has no respect for any of the other occupants; he said that incidents of this type occurred on September 25<sup>th</sup>, 30<sup>th</sup>, October 6<sup>th</sup>, and as early as last night where the noise finally stopped at 3:20AM after he warned the tenant that he would call the police. The landlord said that this morning a car's window was smashed in the parkade and that the police identified the tenant as a suspect.

In his documentary evidence, the landlord provided eight written complaints from neighbours living in the complex concerning the tenant's threatening behaviour. The landlord included a statement and video segment of an incident that occurred on September 28<sup>th</sup>, 2011, in which the tenant was observed shirtless in the complex parkade apparently under the influence of drugs. The landlord also provided photographs, and due to the tenant's erratic behaviour police were called. In their letters, some of the neighbours stated that they were threatened; they do not feel safe and they also have concerns for their vehicle safety in the parkade. The landlord provided a copy of the 1 Month Notice to End Tenancy that he issued to the tenant in person on September 29<sup>th</sup>, 2011. The landlord said that the rental unit was recently renovated and he anticipates that he will find significant damage due to the extreme noise and smashing. He stated that he did not issue a 24 hour inspection notice out of fear of a violent confrontation with the tenant.

### Analysis

I accept the landlord's testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89(2) of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

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 find that the landlord is entitled to an Order of Possession.

Concerning an application for an order to end a tenancy early, Section 56(2) of the Act states:

*The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the landlord's application,*

*(a) The tenant or a person permitted on the residential property by the tenant has done any of the following:*

- (i) Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- (ii) Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
- (iii) Put the landlord's property at significant risk;*
- (iv) Engaged in illegal activity that*
  - (A) Has caused or is likely to cause damage to the landlord's property,*
  - (B) Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
  - (C) Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- (v) Caused extraordinary damage to the residential property, and*

*(b) It would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.*

On the undisputed evidence I find that in the circumstances, the landlord's request to end the tenancy early is reasonable and justified under Section 56(2).

### 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.

I also find that the landlord is entitled to recover the \$50.00 filing fee for this application, which I authorize him to deduct from the tenant's security deposit.

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: October 12, 2011.

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Residential Tenancy Branch