



# 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 the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and both tenants.

The hearing began at 11:00 with just the landlord and the male tenant and the landlord. The female tenant joined the call 5 minutes later. During the course of the call all participants, but in particular the tenants, failed to respect direction I had provided and continually spoke over each other and were generally disruptive.

After I had provided the parties with my decision, verbally, the male tenant became even more disrespectful and I asked him to leave the call. He did so. The call ended within a couple of minutes after the male tenant left the call.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to a monetary order to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord testified his agent served the male tenant with a 1 Month Notice to End Tenancy for Cause on September 14, 2011, personally. The Notice was dated September 14, 2011 with an effective date of October 15, 2011 citing the tenant has allowed an unreasonable number of occupants in the unit and the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and put the landlord's property at significant risk.

The male tenant testified that he had not moved yet because the landlord had not given him any reasons to end the tenancy. The male tenant acknowledged that he had received the 1 Month Notice from the landlord and that he failed to file an Application for Dispute Resolution seeking to cancel the Notice.

The female tenant testified that she has been out of town for a couple of months and that the landlord had not served her with any notice to end the tenancy. The tenants stated that they had individual tenancies with the landlord and that they each had individual tenancy agreements with the landlord.

Each tenant stated that they didn't have a copy of their agreements but that they were with their workers at the Ministry of Social Development (MSD). The female tenant later stipulated that she had a copy of the male tenant's agreement, but would be unable to fax it to me within a reasonable time.

The landlord testified that he did have any copies these documents because he had only filled out welfare shelter forms for the tenants but did not provide written tenancy agreements.

### Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- b) The tenant is repeatedly late paying rent;
- c) There are an unreasonable number of occupants in a rental unit;
- d) The tenant or a person permitted on the residential property by the tenant has
  - 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, or
  - iii. Put the landlord's property at significant risk;
- e) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
  - i. Has caused or is likely to cause damage to the landlord's property,
  - ii. 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
  - iii. Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- f) The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the rental unit or residential property;
- g) The tenant does not repair damage to the rental unit or other residential property, as required under section 32(3), within a reasonable time;
- h) The tenant
  - i. Has failed to comply with a material term, and
  - ii. Has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

- i) The tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34;
- j) The tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;
- k) The rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;
- l) The tenant has not complied with an order of the director within 30 days of the later of the following dates:
  - i. The date the tenant receives the order;
  - ii. The date specified in the order for the tenant to comply with the order.

While the tenants assert that they are in individual tenancies, the burden of proof to establish this is on the tenants. As the tenants have failed to provide any evidence of individual tenancies, I find the tenants are co-tenants. Residential Tenancy Policy Guideline 13 states that co-tenants are jointly responsible for meeting the terms of the tenancy agreement.

I have reviewed all testimony and accept that the tenants have been served with notice to end tenancy as declared by the landlord. I find that because the tenants are co-tenants the service of the notice is only required to be served to one of the two tenants.

The notice is deemed to have been received by the tenants on September 14, 2011 and the effective date of the notice is amended October 31, 2011, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenants failed to file an Application for Dispute Resolution, seeking to cancel the Notice, in full within the 10 days granted under Section 47(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail 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.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$50.00** comprised of the filing fee paid by the landlord for this hearing.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) 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: November 01, 2011.

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Residential Tenancy Branch