



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, MND, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55;
- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:18 a.m. in order to enable him to connect with this hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he posted the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on the tenant's door on December 16, 2011. The landlord testified that he handed the tenant a copy of his dispute resolution hearing package on January 13, 2012. I am satisfied that the landlord served these documents and his written evidence package to the tenant in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for cause? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord testified that this month-to-month tenancy commenced on November 1, 2011, by which time the tenant had moved to the basement of this split-level rental property. Prior to that time, the tenant had been staying with the previous tenant who had rented the entire rental property. Monthly rent for the tenant's basement suite was set at \$300.00, payable in advance on the first of each month. The landlord said that he has rented to a family in the upper level of this two unit rental home. There is no security deposit for this tenancy.

The landlord said that he has not received any rent from the tenant since the tenant occupied the basement suite in November 2011. The landlord applied for an end to this tenancy for cause and an Order of Possession as well as a monetary award of \$2,350.00. In his application for a monetary award, the landlord identified \$900.00 in unpaid rent as of January 11, 2012, \$200.00 for garbage removal, \$450.00 for unpaid utilities, \$400.00 for cleanup of the rental suite, and authorization to obtain his \$500.00 deductible payment.

The landlord entered into written evidence a copy of his 1 Month Notice requiring the tenant to end this tenancy by January 31, 2012. He cited the following reasons for the issuance of the Notice:

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *damage the landlord's property;*
- *jeopardize a lawful right or interest of another occupant or the landlord.*

*Tenant has not done required repairs of damage to the unit/site.*

At the hearing, the landlord testified that he was unable to identify any specific illegal activity that the tenant has been involved in that would enable the landlord to obtain an end to this tenancy for damaging the landlord's property or for jeopardizing a lawful right or interest of another occupant or the landlord. The landlord also said that he had not sent any written request to the tenant to conduct repairs or any written warning that his failure to conduct repairs might lead to an end to his tenancy. However, the landlord did provide undisputed oral testimony regarding a series of events that led him to seek an end to this tenancy on the basis of the first three of the grounds outlined above.

#### Analysis – Order of Possession

Based on the undisputed evidence presented by the landlord, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and to seek an end to this tenancy for cause. The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section

47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 31, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

#### Analysis – Monetary Order

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Other than his oral testimony and the limited information provided in the landlord's application for dispute resolution, the landlord has not submitted any invoices, receipts or estimates to substantiate his claim for a monetary Order for unpaid utilities or for damage arising out of this tenancy. I do accept the landlord's oral testimony that the tenant has not paid any rent since he moved into this rental unit. Consequently, I find that the landlord is entitled to recover four months of unpaid rent for the period from November 1, 2011 until February 29, 2012 in the total amount of \$1,200.00, at a monthly rental rate of \$300.00.

As the landlord has been successful in his application, I allow him to recover his \$50.00 filing fee from the tenant.

#### Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a \$1,250.00 monetary Order in the landlord's favour, an amount which allows the landlord to recover four month's unpaid rent and his filing fee for this application. The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: February 03, 2012

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Residential Tenancy Branch