



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, MNSD, ET, CNC

### Introduction

This conference call hearing was convened in response to two applications for dispute resolution as follows:

By the landlord: as an application for a Monetary Order for damage to the unit and for unpaid rent; to keep the security deposit; and to end the tenancy early and for an Order of Possession.

By the tenant: as an application for cancellation of a 1 Month Notice to End Tenancy for Cause.

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 way of registered mail sent on April 3, 2012, and provided a Canada Post tracking number. 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 a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Should the notice to end tenancy be set aside, and should the tenancy continue?

### Background and Evidence

The rental unit consists of a single detached home. Pursuant to a written agreement, the month to month tenancy started on July 1, 2010. The rent is \$700.00 per month and the tenant paid a security deposit of \$350.00.

The landlord testified that since the start of the tenancy the tenant caused significant damage to the property. He stated that he conducted inspections on October 12, 2010, October 1, 2011, November 5, 2011 and November 8, 2011. The landlord described damages such as; closet door missing; paint tears on the walls; window screen missing; broken blinds; ripped weather stripping; and a significant amount of household garbage. The landlord said that he provided the tenant written notices to correct the situation, but that the tenant made no attempts to make any repairs. The landlord said that the tenant did not pay rent for April 2012.

In his documentary evidence, the landlord provided a copy of the 1 Month Notice to End Tenancy with proof of service that the notice was served on the tenant in person on March 1, 2012, with an effective date of March 31, 2012.

In his documentary evidence, the landlord provided 4 photographs, showing a damaged door frame and heat register; personal items in one corner of the rental unit; and some handwritings on one of the outside windows.

The landlord submitted a monetary claim of \$350.00.

### Analysis

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 did not make an application for dispute resolution within 10 days after receiving the notice. For these reasons I find that the notice to end tenancy is valid and that the landlord is entitled to an order of possession.

Section 53 of the Act allows the effective date of a Notice to End Tenancy to be changed to the earliest date upon which the notice complies with the Act; accordingly, since the notice was issued on March 1<sup>st</sup>, 2012, I find that the effective date of the notice is changed from March 31<sup>st</sup>, to April 30<sup>th</sup>, 2012.

In his application for dispute resolution, the landlord made a request to end the tenancy early. 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.*

Based on the evidence I find that the landlord has established that the tenant has caused extensive damage, and that the tenant has jeopardized a lawful right or interest of the landlord, and that the landlord is entitled to an Order of Possession to end the tenancy early.

I also accept that the tenant did not pay rent for April 2012 and that the landlord is entitled to recover the loss of rental income as claimed.

### Conclusion

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

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.

The landlord established a claim of \$350.00 and I authorize the landlord to retain the tenants' \$350.00 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: April 18, 2012.

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Residential Tenancy Branch