

Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: ET

Introduction:

This is the Landlords' application for an early end to the tenancy and an Order of Possession.

The Landlords gave affirmed testimony at the Hearing.

The female Landlord testified that on September 28, 2012, she mailed each of the Tenants the Notice of Hearing Documents and copies of the Landlords' evidence, by registered mail, to the rental unit. The Landlord provided the tracking numbers. A search of the Canada Post tracking system indicates that both packages were successfully delivered on October 1, 2012.

Based on the Landlord's affirmed testimony, I am satisfied that the Tenants were duly served with the Notice of Hearing documents and copies of the Landlord's evidence in accordance with the provisions of Section 89(1)(c) of the Act. Despite being served with the documents, the Tenants did not sign into the teleconference and the Hearing continued in their absence.

Issue to be Determined:

Have the Landlords shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy for Cause to take effect?

Background and Evidence:

The parties entered into a tenancy agreement on March 10, 2012. A copy of the tenancy agreement was entered in evidence. This is a month-to-month tenancy. Monthly rent is \$1,350.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$675.00.

The Landlords testified that they discovered the beginnings of what appeared to be a marijuana grow operation in the garage of the rental unit on September 13, 2012 while

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they were conducting a routine inspection. They stated that they could smell fresh marijuana in the rental unit and that the Tenants had put up a fence in front of the garage door access. In addition, the Tenants had a rottweiler dog guarding the garage. When the Landlords entered the garage, they noticed that there was a false wall in the middle of the garage. The Landlords phoned the RCMP, who advised them that they would investigate and make application for a search warrant.

The Landlords stated that they are in the restoration business and therefore know what grow operations look like, what fresh marijuana smells like, and what kind of damage can be done to a building as a result of the grow operation. The Landlords testified that they called their insurance company, who told them that if there was a grow operation it would invalidate their house insurance.

The male Landlord returned to the rental unit on September 20, 2012 and opened the side of the garage. He testified that he saw the beginnings of a grow operation in the garage. The Landlords provided photographs in evidence. The Landlord testified that he confronted the male Tenant, who stated that he was building a place to cultivate medical marijuana and that he was applying for a license.

Analysis:

In making an application for an early end to this tenancy the Landlords have the burden of proving that there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the Landlords and placing the Landlords' property at significant risk, and by proving that it would be unreasonable or unfair to the Landlords to wait for a one month Notice to End Tenancy for cause under Section 47 of the *Act* to take effect.

Based on the Landlords' testimony and documentary evidence, I am satisfied on the balance of probabilities that the Tenants are making preparations to grow marijuana in the rental unit. If there were a fire at the rental unit, the Landlords would not be insured against the loss, which could be considerable.

Based on the undisputed affirmed testimony and evidence of the Landlords, I am satisfied that the Landlords have proven that there is cause to end the tenancy and that it would be unreasonable or unfair to the Landlords to wait for a one month Notice to End Tenancy for cause to take effect. I find that the Tenants have seriously jeopardized the Landlords' lawful right and interest and placed the Landlord's property at significant risk.

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Therefore, I hereby provide the Landlords an Order of Possession effective **immediately.**

The Landlords have been successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenants. Pursuant to the provisions of Section 72 of the Act, the Landlords may deduct this monetary award from the security deposit. The balance of the security deposit must be administered in accordance with the provisions of the Act.

Conclusion:

I hereby provide the Landlord an Order of Possession effective immediately upon service of the Order upon the Tenants. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords may deduct **\$50.00** from the security deposit, representing recovery of the cost of the filing fee. The balance of the security deposit must be administered in accordance with the provisions of the Act.

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 10, 2012.	
	Residential Tenancy Branch