



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPL, OPC, MNR, MNSD, FF, CNC CNL, MNDC, OLC, PSF,  
LRE LAT, RR, FF

### Introduction

This hearing was convened in response to applications filed by both the tenants and the landlord.

The tenants seek:

1. To cancel Notice to End Tenancy given for Cause and Landlord's use of property;
2. For a monetary Order for compensation for damages or loss;
3. For an Order compelling the landlord to comply with the Act;
4. For an Order that the landlord provide services and facilities required by law;
5. For an Order suspending or setting conditions on the landlord's right to enter the rental unit;
6. For an Order authorizing the tenants to change the locks;
7. For an Order allowing the tenants to reduce their rent for repairs, services or facilities agreed upon but not provided; and
8. For an Order to recover the filing fee paid for this application.

The landlord seeks:

1. An Order of Possession based on a Notice to End Tenancy given for unpaid rent;
2. An Order of Possession based on a Notice to End Tenancy given for landlord's use of the rental unit;
3. An Order of Possession based on a Notice to End Tenancy given for cause;
4. For a monetary Order for the unpaid rent;
5. For a monetary Order for compensation for damages or loss; and
6. For an Order to recover the filing fee paid for this application.

### Issue(s) to be Decided

Is either party entitled to the Orders sought?

### Background and Evidence

The parties agree that the rent which is the subject of the Notice to End Tenancy given for unpaid rent was paid on the same day that the Notice was served.

The landlord issued two other notices, one for cause (illegal activity) and the other for landlord's use of the property. The landlord says that the illegal activity is that the tenants are smoking marihuana in the rental unit and because they fight and disrupt the peace and quiet enjoyment of other tenants and the landlord. Further, the landlord says the tenants have caused damage to the rental unit.

The tenants dispute these claims.

The landlord says he also served a 2 month Notice to End Tenancy for landlord's use because his daughter is going to move into the rental unit. The landlord says the Notice in this regard is effective January 16, 2012 and his daughter has moved in with him until the rental unit is vacant so that she can move into the rental unit.

The tenants say they have no dispute with the landlord's daughter moving in but are aware that they are entitled to compensation in this case.

### Analysis

I accept the landlord's testimony with respect to the activities of the tenants which he says are illegal however I find that the landlord has failed to supply sufficient evidence of illegal activities for me to issue an Order of Possession based on cause. This claim is therefore dismissed. However, as the tenants have testified that that they do not dispute that the landlord's daughter is intending to move in to the rental unit this tenancy shall therefore end based on the landlord's Notice to End Tenancy for Landlord's use.

With respect to a Notice to End Tenancy for Landlord's Use Section 51 the Residential Tenancy Act says:

**51** (1) A tenant who receives a notice to end a tenancy under section 49 *[landlord's use of property]* is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

(1.1) A tenant referred to in subsection (1) may withhold the amount authorized from the last month's rent and, for the purposes of section 50 (2), that amount is deemed to have been paid to the landlord.

(1.2) If a tenant referred to in subsection (1) gives notice under section 50 before withholding the amount referred to in that subsection, the landlord must refund that amount.

Further,

(2) In addition to the amount payable under subsection (1), if

(a) steps have not been taken to accomplish the stated purpose for ending the tenancy under section 49 within a reasonable period after the effective date of the notice, or

(b) the rental unit is not used for that stated purpose for at least 6 months beginning within a reasonable period after the effective date of the notice,

the landlord, or the purchaser, as applicable under section 49, must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

As this tenancy is ending the tenants' applications for the following Orders are dismissed:

1. For an Order compelling the landlord to comply with the Act;
2. For an Order that the landlord provide services and facilities required by law;
3. For an Order suspending or setting conditions on the landlord's right to enter the rental unit;
4. For an Order authorizing the tenants to change the locks;
5. For an Order allowing the tenants to reduce their rent for repairs, services or facilities agreed upon but not provided.

With respect to the parties claims for recovery of the filing fee paid for this application as both parties have paid fees to pursue their claims and both parties have had limited success I will not order that either party reimburse the other for the \$50.00 filing fees they have paid.

With respect to the parties' claims for monetary orders for money owed or compensation for damage or loss under the Act, pursuant to Section 2.4 of the Rules of Procedure, I will dismiss these claims as unrelated to the disputes respecting the end of this tenancy. These claims are dismissed with leave to reapply.

## **Conclusion**

The landlord is supplied with an Order of Possession effective on January 16, 2013. This Order is as any Order of the Supreme Court of British Columbia and may 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: January 07, 2013.

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Residential Tenancy Branch

