



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by personal delivery July 30, 2013. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenants in attendance.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy was originally with a different Tenant (A H) and was taken over by the male Tenant (R C) approximately 4 months ago. There is no tenancy agreement, but the Landlord accepted rent payments from the Tenant and the Tenant said they understood he was a tenant in the rental unit. The Tenant (RC) said he moved into the rental unit on January 1, 2013. The Landlord said they accepted rent in the form of cash from the Tenant (RC). Rent is \$1,300.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant did not pay a security deposit.

The Landlord said he issued a 1 Month Notice to End Tenancy for Cause dated July 19, 2013. The Landlord said he personally delivered it to the female Tenant on July 19, 2013. The Notice to End Tenancy has an effective vacancy date of August 19, 2013. The Landlord continued to say the reasons on the Notice to End Tenancy for Cause are; the Tenants have significantly interfered with or unreasonably disturbed the Landlord and other people, the Tenants have put the Landlord’s property at significant risk, the Tenants have damaged the property, the Tenants have adversely affected the quiet enjoyment of other, the Tenants have jeopardized the lawful right of other, the

Tenants have caused extraordinary damage to the property, the Tenants have not done the required repairs to the property and the Tenants have sublet the rental unit without the Landlord's written authorization. As a result the Landlord is requesting an Order of Possession to support his Notice to End Tenancy for Cause.

The Landlord continued to say they received a Notice of Unsightly Property from the municipality because the rental property is in very bad condition. The Landlord said there is mattresses in the yard the grass is not cut and there is trash throughout the yard. The Landlord continued to say the Tenants have not cleaned the yard and they believe this is reason the end the tenancy. The Landlord provided photographs taken one week ago to show the trash and clutter in the yard. As well the Landlord submitted the bylaw letter requesting the property be cleaned up.

Further the Landlord said that the Tenant (RC) has sublet from the previous tenant (AH) and there are a large number of people coming and going from the rental unit who are not authorization. The Landlord said they do not know how many people are living at the rental unit. The Tenant said there are 5 people living in the rental unit at the present time. As well the Tenant said he was helping people and operating a soup kitchen out of the rental unit previously, but he has now stopped that activity. The Landlord said they have not authorized any of the people who are living in the unit.

The Tenant said he has cleaned the yard up and complied with the bylaw letter to bring the yard to an acceptable standard. As well the Tenant said he has removed a shed on the property that was encroaching on the property boundaries.

The Tenant continued to say the there has always been a number of occupants in the rental unit who shared the rent and when the previous tenant (AH) moved out he took over as the person who collected and paid the rent. The Tenant said he has not paid the rent for August, 2013, but he does have the full \$1,300.00 for the Landlord to pick up.

The Tenant said the rental unit has always been in poor condition and he has spent his own money to make repairs to the property. The Tenant said the Landlord is delinquent in his duties as a Landlord. The Tenant said the rent is always paid on time.

### Analysis

With regards to the tenancy I find a tenancy does exist as a verbal tenancy between the Applicant and the Respondent (RC). The Landlord has been accepting rent payments from the Respondent for over 4 months and by accepting these cash rent payments in person the Landlord has by his actions accepted a verbal tenancy exists with the Tenant (RC). I find the Respondent (SJ) is not a Tenant, but an occupant.

Section 47(g) of the Act says if the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) *[obligations to repair and maintain]*, within a reasonable time a landlord may end a tenancy by giving a notice to end tenancy.

I accept the Landlord's testimony and evidence that the Tenant has not cleaned the property to an acceptable standard as shown in the Landlord's photographs. Although the Tenant testified that the property has been brought to acceptable standards the Tenant has not provided any corroborating evidence to support his position. Consequently I find the Landlord has established grounds to support the 1 Month Notice to End Tenancy for Cause dated July 19, 2013.

Section 47 (i) of the Act says if a 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 of the Act a Landlord may end the tenancy.

From the testimony of both the Landlord and the Tenant it is appear that there are unauthorized occupants living in the rental unit. The Landlord said a large number of occupants are living there and the Tenant said 5 occupants are living in the rental unit. I find that there are unauthorized occupants in the rental unit and as a result the Landlord has established grounds to support the 1 Month Notice to End Tenancy for Cause.

Section 53 of the Act says that if an effective vacancy date is incorrect on a Notice to End Tenancy the effective vacancy date automatically changes to the correct date. In this situation the effective vacancy date on the Notice is incorrect and it changes from August 19, 2013 to August 31, 2013 to reflect the end of a rental period which is one month after the Notice was issued.

Consequently, I award the Landlord an Order of Possession to take effect at 1:00 p.m. on August 31, 2013.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$50.00 for this proceeding from the Tenant. I award the Landlord a monetary order for \$50.00 to recover the filing fee.

Conclusion

An Order of Possession effective 1:00 p.m. on August 31, 2013 and a Monetary Order in the amount of \$50.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: August 14, 2013

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Residential Tenancy Branch