



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) An Order of Possession pursuant to Sections 47 and 55; and
- b) An order to recover the filing fee pursuant to Section 72.

### **SERVICE**

The tenant did not attend. The landlord provided evidence that the tenant was served with the Notice to end Tenancy on July 16, 2013 by a bailiff and with the Application for Dispute Resolution on July 23, 2013 by registered mail. It was verified online that the postal service attempted delivery and it was available for pickup until July 31, 2013 but not picked up. I find that the tenant is deemed to be served with the Application according to section 89 of the Act for the purposes of this hearing.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that she has good cause to end this tenancy and obtain an Order of Possession?

### **Background and Evidence:**

The tenant did not attend. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord said that the tenants are her relatives, her daughter and her two grandsons aged 29 and 15. The tenancy began about 13 years ago, rent is \$600 a month and a security deposit of \$350 was paid.

The landlord said the tenants have been physically, emotionally and mentally abusing her. She said she had an operation a few months ago and the 15 year old had agreed to cut the grass; after an argument, he scattered all the grass clippings from the bags all over the lawns, then ordered her upstairs, pushed and shoved her and shot a gun into the rug. She called the police and after speaking to the police spoke to them, the police told her that they had only retorted with verbal abuse and possibly the only answer was to end the tenancy as it appeared to be unsafe for her to live there. After the police left, she said her other grandson came up and verbally abused her, he has an anger issue and sometimes uses drugs. Since these incidents, the landlord feels unable to live in her home and has taken shelter with her friend. In evidence is the letter from her doctor

friend who attests to the extreme emotional distress of the landlord, her observation of the escalation of the situation in the past few years and constant abuse of the landlord.

Furthermore, the landlord said her relatives have a hoarding issue. She has been unable to use her garage for the past 11 years because they collect junk and fill the garage as well as the basement where they live and even the driveway. She provided photographs as evidence of the accumulated goods. She said the basement and outside of her home are unsightly and there could be a fire hazard also.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

I find that the landlord is entitled to an Order of Possession. I find she has satisfied the onus of proving on a balance of probabilities that she has good cause to end this long tenancy. I find her evidence credible that she is being physically and emotionally abused by her relatives and feels too unsafe to live upstairs in her own home; her evidence is well supported by the letter from her doctor friend and by the photographs. I find the tenants are also not keeping the property in a clean and hygienic manner contrary to their obligations under section 32 of the Act, they have removed or jeopardized the lawful right of the landlord to use her own property by taking over unauthorized use of the garage and put her property at significant risk with their hoarding behaviour. An Order of Possession is issued effective August 31, 2013 which is the effective date on the Notice to End Tenancy.

**Conclusion:**

**I HEREBY ORDER that the tenancy is at an end on August 31, 2013 and the landlord is issued an Order of Possession effective on that date.**

**I HEREBY ORDER that the landlord may recover her \$50 filing fee by deducting this from the security deposit of the tenant which will leave a balance of \$300 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: August 06, 2013

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Residential Tenancy Branch