



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: ET, OPC, FF  
CNC, FF

### Introduction

This hearing was scheduled in response to 2 applications: i) by the landlords for an early end of tenancy / an order of possession / and recovery of the filing fee; and ii) by the tenants for cancellation of a notice to end tenancy for cause / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on December 5, 2012. Monthly rent of \$800.00 is due and payable in advance on the first day of each month, and a security deposit of \$400.00 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlords issued a 1 month notice to end tenancy dated August 4, 2013. The notice was served in-person on August 5, 2013. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is September 4, 2013, and reasons identified in support of its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The tenants filed an application to dispute the notice on August 13, 2013.

The landlords' issuance of the notice arises out of fears for their personal safety and the safety of their property when tenant "CE's" daughter, "HH" visits the unit. Police have been called on numerous occasions as a result of "HH's" intoxicated and abusive behaviour during visits to the unit, and the landlords claim that tenant "CE" has declined to forbid "HH's" visits. The landlords note that since the 1 month notice has been issued, tenant "CE" may have only begun to accept the seriousness of the landlords' concerns, and the landlords continue to seek an order of possession.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

56(2) 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 case of a 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;

Based on the documentary evidence and testimony of the parties, I find that the landlords have established entitlement to an early end of tenancy and an order of possession.

Section 63 of the Act speaks to the **Opportunity to settle dispute**, and provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion led to a partial resolution and it was specifically agreed as follows:

### **RECORD OF SETTLEMENT**

- that the landlords will permit the tenancy to continue until **Thursday, October 31, 2013**, and that an **order of possession** will be issued in favour of the landlords to that effect;

- that the landlords reserve the right to negotiate a new tenancy agreement with the tenants following the effective date of the order of possession;
- that both parties withdraw their applications to recover the filing fee.

As the end of tenancy nears, the attention of the parties is drawn to section 37 of the Act which addresses **Leaving the rental unit at the end of a tenancy**:

37(1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

The parties are also referred to the provisions set out in section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

### Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **Thursday, October 31, 2013**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and 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: September 20, 2013

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Residential Tenancy Branch

