



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LLA Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an order ending the tenancy early and obtaining an Order of Possession.

An agent for the landlord company attended the hearing however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on April 22, 2014, no one for the tenant attended. The landlord's agent testified that the documents were served on that date and in that manner, and has provided a copy of a registered mail ticket with a registered mail item number provided by Canada Post, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the conference call hearing was the landlord's agent.

The landlord also provided evidentiary material in advance of the hearing, and all evidence and testimony has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Is the landlord entitled under the *Residential Tenancy Act* to end the tenancy earlier than a notice to end tenancy would take effect?

Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on August 1, 2012 and the tenant still resides in the rental unit. Rent in the amount of \$580.00 per month is payable in advance on the 1<sup>st</sup> day of each month and there are no rental

arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$290.00 which is still held in trust by the landlord.

The landlord's agent further testified that the tenant has removed smoke detectors in the rental unit, and that a number of rental units in the 60 unit complex have done the same. The landlord's agent believes it is due to drug activity, and has provided a copy of a letter from the City dated April 1, 2014 stating that the only fire safety notification system is hard-wired smoke alarms and under the BC Fire Code, each unit is required to have working smoke alarms. The landlord's agent has replaced 5 smoke detectors in this rental unit since January this year. The letter from the City indicates that the tenant has continually put the lives of other occupants and the tenant at risk by removing or tampering with the smoke alarm. The letter further states: "Fire Services supports landlord's request to end a tenancy without full notice as the tenant or the tenant's guests have seriously jeopardized the safety and interests of the landlord, other occupants and firefighters by removing their smoke alarms."

The landlord's agent personally handed to the tenant a 1 Month Notice to End Tenancy for Cause on April 4, 2014. A copy of the notice has been provided, and it is dated April 4, 2014 with an effective date of vacancy of May 5, 2014. The reasons for issuing the notice are:

- Tenant or a person permitted on the property by the tenant has:
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk.

The landlord is not opposed to an Order of Possession effective May 31, 2014, and is not applying for recovery of the filing fee.

The landlord's agent further testified that the landlord has not been served with a Tenant's Application for Dispute Resolution disputing the notice to end tenancy.

### Analysis

Firstly, with respect to ending the tenancy early, I am not satisfied that the landlord has established that the tenancy should end earlier than the notice to end tenancy would take effect.

The *Residential Tenancy Act* states that once a tenant has been served with a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute the notice. If the tenant does not, the tenant is conclusively presumed to have accepted that the tenancy

ends on the effective date of the notice. In this case, the landlord's agent testified that the notice was personally served on the tenant on April 4, 2014, and in the absence of any evidence to the contrary, I accept that testimony. The landlord's agent also testified that the tenant has not served the landlord with a Tenant's Application for Dispute Resolution disputing the notice, and I accept that testimony.

The *Act* also specifies that a notice must be issued the day before the day rent is payable under the tenancy agreement and must take effect at the end of the following month. In this case, the notice was issued on April 4, 2014 and therefore cannot be effective until May 31, 2014. Incorrect effective dates contained in a notice to end tenancy are changed under the *Act* to the nearest date that complies with the *Act*, which I find is May 31, 2014.

The tenant has not disputed the notice, has not moved out of the rental unit, and therefore, I find that the landlord is entitled to an Order of Possession effective May 31, 2014, and I so order.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective May 31, 2014 at 1:00 p.m.

This order is final and binding and may be enforced.

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: May 15, 2014

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Residential Tenancy Branch

