



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

ET and FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, for an early end to the tenancy, and to recover the filing fee from the Respondent for the cost of this Application for Dispute Resolution.

The Landlord stated that on November 13, 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Respondent with the initials "N.B." at the rental unit, via registered mail. She stated that a package for this Respondent was also posted at the rental unit on November 12, 2014. In the absence of evidence to the contrary, I find that these documents have been served to this Respondent in accordance with section 89 of the *Residential Tenancy Act (Act)*; however she did not appear at the hearing.

The Landlord stated that on November 13, 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to the Respondent with the initials "J.R." at the rental unit, via registered mail. She stated that a package for this Respondent was also posted at the rental unit on November 12, 2014. In the absence of evidence to the contrary, I find that these documents have been served to this Respondent in accordance with section 89 of the *Act*; however he did not appear at the hearing.

The Landlord stated that the Application for Dispute Resolution and the Notice of Hearing were not served to the Respondent with the initials "K.B.". I find that these documents have not been served to this Respondent and I therefore dismiss the Landlord's application for an Order naming this Respondent.

I note that although all documents submitted in evidence have been reviewed, only those documents that are relevant to my decision have been referenced in this decision.

Issue(s) to be Decided

Is the Landlord entitled to end this tenancy early and to an Order of Possession?

Background and Evidence

The Landlord stated that she entered into a tenancy agreement with the Respondents with the initials "K.B." and "N.B.".

The Landlord stated that she understands that the Respondent with the initials "J.R." is still living at the rental unit and she has been told he will be vacating the rental unit on November 30, 2014.

The Landlord stated that on November 07, 2014 the Respondents with the initials "K.B." and "N.B." were served with a Ten Day Notice to End Tenancy for Unpaid Rent, via registered mail. This Notice declared that the Tenant must vacate the rental unit by November 17, 2014. A copy of this Notice was submitted in evidence.

The Landlord stated that the Respondent with the initials "K.B." informed the Landlord, via email, that she had received the Ten Day Notice and that she and the Respondent with the initials "N.B." intend to vacate the unit on November 15, 2014. The Landlord stated that she does not believe that this Notice to End Tenancy has been disputed.

The Landlord stated that on November 06, 2014 the Respondents with the initials "K.B." and "N.B." were served with a One Month Notice to End Tenancy for Cause, via registered mail. This Notice declared that the Tenant must vacate the rental unit by December 31, 2014. A copy of this Notice was submitted in evidence.

The Landlord stated that she wants the tenancy to end immediately and she wants the Respondent with the initials "J.R." to vacate the rental unit immediately because:

- The strata corporation has informed her that he has used the amenity room many times in the early morning hours, which is in contravention of the strata rules
- The strata corporation has informed her that he has broken into the amenity room, after the Tenant's electronic access to this room was cancelled
- The strata corporation has informed her that he has damaged the ceiling in the amenity room and left a mess in the room after using it
- The strata corporation has informed her that he has left garbage on the balcony
- The strata corporation has informed her that he was smoking in common areas
- One of the other Respondents informed her that he has a knife stored on the balcony.

The Landlord submitted letters from the strata corporation that corroborate the Landlord's testimony.

The Landlord submitted an email from the Respondent with the initials "K.B." , dated November 10, 2014, in which she declared that the Respondent with the initials "J.R." admitted to breaking the into the amenity room because he "forgot his fob inside". The Landlord submitted an email from the Respondent with the initials "N.B.", dated November 05, 2014, in which she declared that she is afraid of the Respondent with the initials "J.R." and that she wants him to move out.

### Analysis

On the basis of the undisputed evidence, I find that the Landlord and the Respondents with the initials "K.B." and "N.B." entered into a tenancy agreement with the Landlord and that the Respondent with the initials "J.R." is merely occupying the rental unit.

As the Respondent with the initials "J.R." is not a tenant, he has no rights or obligations under this tenancy agreement. I therefore decline to grant the Landlord a monetary Order that names this party.

On the basis of the undisputed evidence, I find that the Landlord and the Respondents with the initials "K.B." and "N.B." have vacated the rental unit.

On the basis of the undisputed evidence, I find that the Landlord served the Respondents with the initials "K.B." and "N.B." with a One Month Notice to End Tenancy, by registered mail, which declared that the Tenant must vacate the rental unit by December 31, 2014.

Section 56(1) of the *Act* stipulates that a landlord can apply for an Order of Possession that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act*.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property

- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

On the basis of the undisputed evidence, I accept that the manner in which the amenity room has been used interfered with or unreasonably disturbed another occupant or the landlord of the residential property. I particularly note that breaking into the room, damaging the room, and leaving it in a state of disrepair on more than one occasion places an unreasonable burden on the strata corporation and other occupants of the residential complex.

Section 56(2)(b) of the *Act* authorizes me to grant an Order of Possession in accordance with section 56 of the *Act* only if it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

Although in most circumstances I would not find that the nature of these disturbances would be grounds to end a tenancy early, in these unique circumstances I find that the tenancy should end pursuant to section 52 of the *Act*.

In determining that the tenancy should end pursuant to section 52 of the *Act*, I was heavily influenced by the undisputed evidence that the Respondents with the initials "K.B." and "N.B." have vacated the rental unit and that they would like the Respondent with the initials "J.R." to vacate the unit. Given that the Respondent with the initials "J.R." has no legal right to occupy the rental unit and appears to be in the unit without the consent of the actual tenants, I find it reasonable to end the tenancy early.

In addition, I find it reasonable to end this tenancy early as the Respondents with the initials "K.B." and "N.B." are no longer occupying the rental unit and will not be able to monitor the behaviour of the Respondent with the initials "J.R.". Given that the Respondent with the initials "J.R." has demonstrated a disrespect for the residential property in the past, I find it his unmonitored presence in the rental unit places the Landlord's property at significant risk.

I therefore grant the Landlord's application to end this tenancy early and for an Order of Possession.

I find that the Landlord's Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on November 28, 2014. This Order may be served on the parties named on the Order, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord has established a monetary claim of \$50.00 for the fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order for that amount. In the event that the Respondent does not comply with this Order, it may be served on the party named on the Order, filed with the Province of British Columbia Small Claims Court 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: November 27, 2014

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Residential Tenancy Branch

