



# 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* (the Act) for orders as follows:

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

### **SERVICE:**

The tenant did not attend. The landlord gave sworn evidence that she served the Notice to end Tenancy dated February 12, 2015 posted on the door and the Application for Dispute Resolution by registered mail. It was verified online that after notices were left, it was unclaimed by the tenant. However, the landlord said that when it was returned, she went with a witness to give the tenant a copy of the Application and she talked with him and verified that he knew about the hearing. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act.

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

The tenant was issued a Notice to End Tenancy dated February 12, 2015 for cause. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession? Is the landlord now entitled to recover the filing fee?

### **Background and Evidence:**

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The evidence is that the tenancy with this landlord commenced December 1, 2014 when she bought the unit, a security deposit of \$520 is held and rent is currently \$1040 a month.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by him has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- b) The tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord.

The landlord provided as evidence many Strata Violation Notices that have been served due to noise complaints; there were 3 in December and 3 more in 2015 plus one regarding a dog defecating in the lobby. Police and Security personnel have attended regarding the noise problems. The landlord said she has incurred fines of about \$900 due to the tenant's or his visitor's behaviour. She said the tenant said he would move out soon and requests an Order of Possession and to recover the filing fee.

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

**Analysis:**

The onus of proof on the balance of probabilities is on the landlord to prove that they have good cause to end the tenancy. Section 47 of the Act sets out causes. Among other causes, it provides *that if the tenant or a person permitted on the property by him has significantly interfered with or unreasonably disturbed another occupant or the landlord; or the tenant has engaged in illegal activity that adversely affects the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord*, there is cause to end the tenancy.

I find the landlord's evidence credible that the tenant has significantly interfered with and unreasonably disturbed other occupants and engaged in illegal activity that adversely affects the quiet enjoyment of other occupants with his or his visitor's ongoing noise and a dog defecating in the building lobby. Her evidence is well supported by the Strata violation notices and security reports. I find that the landlord is entitled to an Order of Possession. I advised the landlord that she must bring a further Application to obtain a monetary order as it had not been claimed on this Application and advised her to read section 38 of the Act.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service I find the landlord is entitled to recover filing fees paid for this application. **I HEREBY ORDER that the landlord may deduct \$50 from the tenant's security deposit to recover the filing fee; this will leave \$470 remaining of the 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: April 01, 2015

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Residential Tenancy Branch

