



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPM, FF

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the tenants by mailing, by registered mail to where they reside on June 4, 2015. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on January 1, 2014. The rent is \$635 per month payable on the first day of each month. The tenant paid a security deposit of \$450 at the start of the tenancy.

The landlord seeks to end the tenancy based on the following:

- On March 25, 2015 the tenant was involved in an incident with another tenant where he was abusive and threatening. This conduct terrified the other tenant. The other tenant told the landlord that the tenant returned with a knife. The police were called and talked to the tenant.
- The tenant was charged under the criminal code with an offence of uttering threats to cause death or bodily harm. The tenant was released under a number of bail conditions.
- On March 27, 2015 the landlord served with a breach letter on the tenant. The landlord also served a one month Notice to End Tenancy for Cause setting the end of tenancy for April 30, 2015.
- The tenant was not able to find alternative accommodation and made a request that he be permitted to move out at the end of May. He also told the landlord that he had an operation and was not and needed recovery time.
- On April 22, 2015 the parties signed a mutual agreement to end the tenancy effective May 31, 2015.
- The landlord wrote a letter to the tenant dated April 24, 2015 where it states they had accepted the tenant's notice to vacate on or before May 31, 2015.
- The tenants failed to move out and continue to reside in the rental unit.
- The landlord testified the tenants have not paid the rent for June and July.

The tenant disputes the landlord's claim based on the following:

- The tenant denies he has failed to pay the rent for June and July. He testified the rent is being paid by the Ministry.
- The tenant denies he approached the other tenant with a knife. This matter is before the criminal courts.
- The tenant testified that the landlord forced them to sign the Mutual Agreement to End the Tenancy.
- He testified he did not and does not wish to end the tenancy.

- He testified he has been under extreme stress as a result of the situation and suffers from a medical condition (PTSD).
- He testified he had an operation on his knee on April 14, 2015.
- He blames the other tenants in the building. He was not told that most are Muslim. They have been extremely noisy at night.

Analysis - Order of Possession:

After carefully considering all of the evidence I determined the landlord has established sufficient cause and is entitled to an Order for Possession based on the following:

- I do not accept the submission of the tenant that the Mutual Agreement to End the Tenancy should be set aside because the landlord forced him to sign it. I find that the tenant made a request to the extension of one month. The landlord agreed to this extension but only if the tenant agreed to leave at the end of May. While this may amount to pressure it is not the type of pressure in which an arbitrator should set aside the Mutual Agreement to End the Tenancy. The landlord was generous of spirit in allowing the tenant to stay an extra month and should not be penalized for that.
- The landlord served a one month Notice to End Tenancy for Cause that set the End of Tenancy for the end of April. The tenant did not file an Application for Dispute Resolution to dispute this Notice. On April 22, 2015 (the date the parties signed the Mutual Agreement to End the Tenancy) the landlord had the legal right to apply for an Order for Possession. The landlord agreed to permit the tenant to stay an extra month if the tenants agreed to vacate at the end of May. The landlord relied on the tenant's representations and Mutual Agreement to End the Tenancy in that they confirmed to the tenant they would not be relying on the Notice to apply for an Order for Possession. It would not be appropriate to permit a tenant to avoid their responsibilities under this agreement.
- The tenant has alleged they suffer from a medical condition and the other tenants are responsible for his problems but he failed to present evidence to support his allegations.

- The tenant failed to present evidence that the rent for June and July have been paid.

I determined the landlord was entitled to an Order for Possession. Normally, the Order for Possession would be granted on 2 days Notice. Accordingly, I granted the landlord an Order for Possession effective on 7 days notice.

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The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

I further order the tenants pay to the landlord the sum of \$50 for the cost of the filing fee such sum may be deducted from 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: July 20, 2015

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Residential Tenancy Branch

