



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: ET / OP, FF

### Introduction

This hearing concerns the landlord's application for an early end to tenancy and an order of possession, in addition to recovery of the filing fee. The landlord attended and gave affirmed testimony. Neither tenant appeared.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served on each tenant by way of registered mail. Evidence provided by the landlord includes the Canada Post tracking numbers for both hearing packages. The Canada Post website informs that neither hearing package was claimed by the tenants. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants have been duly served in accordance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from November 24, 2014 to November 30, 2015. Monthly rent of \$850.00 is due and payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

Evidence submitted by the landlord documents that Police have attended the unit on March 10, April 10, and May 03 & 04, 2015.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated June 05, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. Reasons identified on the notice in support of its issuance number no less than eight (8) and include, but are not limited to, the following:

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

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

The tenants have not filed an application to dispute the notice and they continue to reside in the unit.

Additionally, by letter to the landlord from strata by date of June 09, 2015, the landlord was informed, in part:

We have received two complaints in regards to the level of noise and activity emitting from [the subject unit]. These complaints include loud music, swearing, jumping over the deck railings and walking back and forth to an adjacent unit, and very loud talking. Also, loud arguments have been overheard; all of which are an issue at any time of the day, but in this case, it was reported to have become a pattern on most weekends, well past midnight.

Other evidence submitted by the landlord includes photographs taken within the foyer of the building. These photographs show paint splattered across walls and the carpeted floor, in addition to lettering on one of the hallway walls. It is alleged that the tenants and / or a person(s) permitted on the residential property by the tenants are responsible for this damage.

### Analysis

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;
  - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

- (iii) put the landlord's property at significant risk;

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, and in consideration of the above statutory provisions, I find that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, and that the tenants have seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and that the tenants have put the landlord's property at significant risk. Accordingly, I find that the landlord has established entitlement to an **early end to tenancy** and an **order of possession**.

As the landlord has succeeded with the principal aspects of his application, I find that the landlord has also established entitlement to recovery of the **\$50.00 filing fee**. I order that the landlord may recover this fee by withholding that amount from the tenants' security deposit at the end of tenancy.

#### Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. 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.

The landlord is hereby ordered that he may withhold **\$50.00** from the tenants' security deposit in order to recover the filing fee for this application.

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: August 11, 2015

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Residential Tenancy Branch

