



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KEEFER APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPC FF

### **Introduction:**

The Notice to End Tenancy is dated July 18, 2015 to be effective August 31, 2015. The landlord provided sworn evidence of two witnesses that it was served by posting it on the tenant's door and the Application for Dispute Resolution was served personally.

**Preliminary Issue:** The tenant said the Notice to End Tenancy was not served on him. The landlord's building manager gave sworn evidence in the hearing that he saw the Property Manager post the Notice on the tenant's door and he knows it was the correct door for the tenant lives next door to his brother. Also, in the file is a signed Proof of Service where a painting contractor said he saw the Notice posted on the door on July 18, 2015. I prefer the evidence of the landlord that the Notice to End Tenancy was posted on the tenant's door on July 18, 2015 as their evidence is well supported by witnesses. I find the Notice to End Tenancy was legally served pursuant to section 88 of the Act. The tenant agreed he received the Application personally so I find it was served legally pursuant to section 89 of the Act.

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause pursuant to sections 47 and 55; and
- b) To recover the filing fee for this Application.

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

Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy pursuant to section 47 of the Act and they are entitled to an Order of Possession and to recover filing fees?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The present landlord took over the building in 2012 but he does not dispute that the tenant has lived there since about 2007. The

undisputed evidence is that rent is \$375 a month and a security deposit of \$180 was paid in 2007.

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

- (i) The tenant or a person permitted on the property by them has put the landlord's property at significant risk.

The landlord gave sworn testimony that the property is inspected annually by the City and for the past two years, this tenant's unit has failed inspection because it is so dirty and he has the window blocked. The tenant also removed the smoke detector and the landlord is being fined because of the tenant's actions; they had to promise the City that they would take steps to end the tenancy. The landlord also said that the tenant consistently leaves garbage in the hallway and this attracts rodents and other pests.

The tenant said the landlord told him that he passed a recent City inspection and he did not tell him that there were other issues. He said he had removed the smoke detector because it was so sensitive that an alarm went off when he tried to use his kettle in the morning. The landlord said that the tenant did start putting garbage out in the past few weeks after the Notice to End Tenancy was served and he did pass the September inspection after the Notice was served but they are unwilling to continue this tenancy as every year there is something wrong with this tenant's unit. His window is still blocked and they had to promise the City that they would end the tenancy.

After negotiation, the parties agreed to a move out date of November 30, 2015.

**Analysis:**

The onus is on the landlord to prove on the balance of probabilities that they have good cause to end the tenancy. I find they satisfied the onus of proving that this tenant's behaviour is putting the landlord's property at significant risk which is a good reason to end the tenancy according to section 47 of the Act. Although the tenant contended he was putting out his garbage now and had passed a City inspection in September, I find his recent actions are subsequent to the Notice to End Tenancy and are not sufficient to satisfy the landlord that the risk has been removed. The evidence is that the tenant's risky behaviour has continued for years and the landlord had to promise the City to end this tenancy for health and safety reasons. I find the dirty conditions, blocked window and removal of the smoke detector places the landlord's property at significant risk. I grant the landlord an Order of Possession effective November 30, 2015 as agreed.

**Conclusion:**

I find the landlord entitled to an Order of Possession effective November 30, 2015 as agreed and to recover the filing fee of \$50 for this application. The Order of Possession must be served on the tenant and may be enforced, if necessary, through the Supreme Court of British Columbia.

**I ORDER THAT** the filing fee of \$50 may be deducted from the tenant's security deposit of \$180 which will leave \$130 security deposit in trust for the tenant.

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 05, 2015

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Residential Tenancy Branch

