



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FF; CNC, LAT

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for their application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- cancellation of the landlords' 1 Month Notice to End Tenancy for Cause, dated February 29, 2016 ("1 Month Notice") pursuant to section 47; and
- authorization to change the locks to the rental unit, pursuant to section 70.

The tenant did not attend this hearing, which lasted approximately 22 minutes. The two landlords, male and female, attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords testified that the tenant was served with the landlord's application for dispute resolution hearing package ("Application") on March 7, 2016 by way of posting to her rental unit door. Posting of an application requesting an order of possession under section 55 of the *Act*, is permitted by section 89(2)(d) of the *Act*. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' Application on March 10, 2016, three days after its posting.

The landlords testified that they received the tenant's application for this hearing. In accordance with sections 89 and 90 of the *Act*, I find that the landlords were duly served with the tenant's Application.

The landlords testified that the tenant was served with the landlords' 1 Month Notice on February 29, 2016, by way of posting to her rental unit door. In accordance with

sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlords' 1 Month Notice on March 3, 2016, three days after its posting.

#### Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of the tenant's participation in this hearing, I order the tenant's entire application dismissed without leave to reapply.

#### Preliminary Issue – Dismissal of Landlords' Monetary Application

The landlords posted their application to the door of the tenant's rental unit. They are not permitted to serve their application in this manner for monetary orders, which require service in person or by registered mail only, as per section 89(1) of the *Act*. Therefore, I dismiss the landlords' application to recover the \$100.00 filing fee without leave to reapply, as it is a monetary order being sought by the landlords.

#### Issues to be Decided

Are the landlords entitled to an Order of Possession for cause?

#### Background and Evidence

The landlords testified that this month-to-month tenancy began sometime in 2013 but a new written tenancy agreement was signed by both parties for a tenancy beginning on August 1, 2015. A copy of the written tenancy agreement was provided for this hearing. Monthly rent in the amount of \$800.00 is payable on the first day of each month. A security deposit of \$400.00 was paid by the tenant and the landlords continue to retain this deposit. The landlords testified that they do not know whether the tenant is still living in the rental unit because they have not seen her in two weeks. They confirmed that they did not have possession of the unit and they were still seeking an order of possession.

The landlords' 1 Month Notice indicates an effective move-out date of April 30, 2016. The landlords issued the notice for the following reasons:

- *Tenant or a person permitted on the property by the tenant has:*
  - *put the landlord's property at significant risk.*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlords testified that the tenant installed an alarm system at the rental unit, without written permission from the landlords, and did not provide them with the alarm code to enter the rental unit. The landlords said that they gave written notices to the tenant to advise her that she was not permitted to install the alarm system and to have it removed, which the tenant refused to do. The landlords said that they entered the rental unit after providing written notice on one occasion and that the alarm activated and they were unable to deactivate it because they did not have the alarm code. The landlords provided documentary evidence to support the above claims. The tenant, in her written evidence with her own application, acknowledged installing an alarm system in the rental unit without the landlords' written permission because she did not know she required permission.

### Analysis

Based on the landlords' undisputed testimony at this hearing, I am satisfied that the landlords issued the 1 Month Notice for a valid reason. I find that the tenant breached a material term of the tenancy agreement that was not corrected after written notice was given by the landlords.

Section 13(2)(a) of the *Act* requires a tenancy agreement to comply with the *Residential Tenancy Regulation* ("*Regulation*"), including the standard terms. The standard terms are outlined in the "Schedule" of the *Regulation* and section 10 of the Schedule states that the tenant is not permitted to change the locks or other means of access to the rental unit unless the landlords agree in writing. Residential Tenancy Policy Guideline 1 under "Security" states that the tenant must have written permission from the landlords to install an alarm system and must give the access code to the landlords. Both parties provided undisputed evidence that the tenant installed an alarm system without the landlords' written permission. The tenant refused to give the landlords the alarm code and did not remove the system despite repeated written notices from the landlords. I find this to be a breach of a material term of the tenancy agreement as it restricts the landlords' access to the rental unit.

As I have found one ground indicated on the 1 Month Notice to be valid, I need not explore the other ground.

Based on my decision to dismiss the tenant's Application and uphold the landlords' 1 Month Notice, I find that this tenancy ended on the effective date of the 1 Month Notice, April 30, 2016. The landlords confirmed that the tenant has paid full rent until the end of April 2016. Accordingly, I find that the landlords are entitled to an Order of Possession, effective at 1:00 p.m. on April 30, 2016, pursuant to section 55 of the *Act*. I find that the 1 Month Notice complies with section 52 of the *Act*.

### Conclusion

I grant an Order of Possession to the landlords **effective at 1:00 p.m. on April 30, 2016**. Should the tenant or any other occupants on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlords' application to recover the filing fee is dismissed without leave to reapply.

The tenant's entire application is dismissed without leave to reapply.

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 20, 2016

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Residential Tenancy Branch