



## Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

### DECISION

Dispute Codes            OPC, O, FF

#### Introduction

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

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

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. This hearing lasted approximately 66 minutes in order to allow both parties to fully present their submissions.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package ("Application"). In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's Application.

The landlord confirmed that the tenant was served with the 1 Month Notice to End Tenancy for Cause, dated June 11, 2016 ("1 Month Notice") on June 11, 2016, by way of posting to his rental unit door and by way of leaving a copy under his door. The tenant confirmed receipt on June 10 or 11, 2016, agreeing that the notice was posted to his door and slipped underneath the door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was duly served with the landlord's 1 Month Notice on June 11, 2016 by way of posting to his rental unit door.

At the outset of the hearing, the landlord confirmed that her application for "other" unspecified relief was for monetary damages against the tenant. As the landlord did not specifically apply for a monetary order or indicate an amount in her application, I advised her that she would be required to file a new application for dispute resolution if she intended to do so in order for the tenant to have proper notice to respond. Accordingly, the landlord's application for other unspecified relief is dismissed without leave to reapply.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on June 1, 2006, while the tenant said that it was on November 15, 2006. Monthly rent in the amount of \$1,100.00 is payable on the fifteenth day of each month. The landlord said that she did not receive a security deposit from the tenant, while the tenant said that he paid a security deposit of \$400.00 or \$425.00 to the landlord. The tenant confirmed that he continues to reside in the rental unit. The landlord testified that no written tenancy agreement exists for this tenancy.

The landlord's 1 Month Notice indicates an effective move-out date of July 15, 2016. The landlord 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;*
- *Tenant has caused extraordinary damage to the unit/site or property/park.*

The landlord said that the tenant has been involved in extreme hoarding in his rental unit since 2008. The tenant said that the landlord has only made an issue of debris in his rental unit for the last year and a half. The landlord confirmed that the strata company advised her that the tenant had an issue with hoarding and he had to clean his rental unit or fines would be imposed against the landlord.

The landlord claimed that the tenant has numerous items, including books, boxes, step ladders, crates and heavy tools and tool boxes, piled from the floor to the ceiling in all areas of the rental unit. The tenant said that he has numerous books and boxes in the rental unit and that it was because the landlord wanted to fix the windows in his rental unit, so he had to move items around. The landlord stated that she has given the tenant ample warnings and time to clean the rental unit but he has failed to comply. She explained that exits and sprinklers are blocked, creating a fire hazard for the rental unit, the tenant and neighbours of the unit.

The landlord produced an order, dated June 21, 2016, from the local assistant to the fire commissioner ("fire department order"), indicating that a fire hazard exists in the rental unit because of the tenant piling up debris, which was blocking a smoke detector, heating sources, sprinkler heads and access to exits. The landlord said that she contacted the police and the fire department for assistance and after asking them a second time, the fire department finally agreed to inspect the rental unit. The landlord maintained that the tenant has not complied with

this order, which required compliance within 14 days of the date of the order. The landlord testified that the fire department followed up with an inspection and determined partial compliance with the order but required further work to be done. The landlord confirmed that the fire department did not issue any further documents to her in writing after the initial order.

The tenant said that the landlord served the fire department order to him on June 29, 2016, which did not give him enough time to clear the debris. The landlord said that she provided the order to the tenant on June 27, 2016. The tenant said that he has complied with the fire department order, that he has moved numerous items and put them in storage, and that he has cleared access exits in the rental unit.

The landlord is also seeking to recover the \$100.00 filing fee paid for this Application from the tenant.

### Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant put the landlord's rental unit at significant risk. I find that the tenant failed to abide by section 32 of the *Act*, to "maintain reasonably health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access."

I find that the landlord produced a fire department order, indicating that the debris in the rental unit created a fire hazard and had to be cleared within 14 days. I find that the tenant's own testimony confirmed that he did not fully comply with the order. The tenant stated that when the fire department returned to inspect after the order was issued, they asked him to clear debris near the sprinklers in the two bedrooms. The tenant did not submit any documentary evidence for this hearing, including any photographs, written or witness evidence, indicating that he had complied with the fire department order since it was issued. Regardless of the date that the tenant received the fire department order, I find that the tenant had ample time to clear the debris and failed to do so. The landlord said that she has been in the rental unit three times since the order was issued, and as recently as July 22, 2016, the debris was still present and create a risk to the property.

As I have found one of the reasons on the 1 Month Notice to be valid, I do not need to examine the other reason.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. The tenant said that he tried to file an application online and via facsimile, but he was unable to provide a file number or a hearing date. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on July 15, 2016, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by July 15, 2016. As this has not occurred, I find that the landlord is entitled to an Order of Possession effective at 1:00 p.m. on August 15, 2016, pursuant to section 55 of the *Act*. Both parties agreed that the

tenant had paid rent until August 15, 2016 and I find that the tenant is entitled to possession of the rental unit until that date. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

As the landlord was successful in this Application, I find that she is entitled to recover the \$100.00 filing fee paid for the Application.

### Conclusion

I grant an Order of Possession to the landlord effective **at 1:00 p.m. on August 15, 2016**. Should the tenant or anyone 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.

I issue a monetary order in the landlord's favour in the amount of \$100.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord's application for other unspecified relief 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: August 08, 2016

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Residential Tenancy Branch