



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 0851927 B.C. Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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### Introduction

This was an application by the landlord for an order ending the tenancy on a date earlier than the tenancy would end had a notice to end the tenancy for cause been given to the tenant, and for an Order for Possession. The hearing of the application for dispute resolution was conducted by conference call. The landlord called in and participated in the hearing. Several prospective witnesses for the landlord also called in. The tenants did not call in and did not participate. They were served with the application for dispute resolution and Notice of Hearing sent to each tenant by registered mail on December 7, 2016. Canada Post records confirmed that delivery was attempted on December 8<sup>th</sup> and several notice cards were left for the tenants indicating where the registered mail could be picked up, but the tenants failed to retrieve the registered mail. Failure to pick up registered mail is not a valid excuse for failure to attend a hearing. Pursuant to section 90 of the *Residential Tenancy Act* the tenants are deemed to have received the registered mail on the fifth day after it was sent which was on December 12, 2016. The landlord also personally delivered evidence in support of the application to each tenant on December 22, 2016.

### Issue(s) to be Decided

Should there be an early end to the tenancy?

### Background and Evidence

The rental unit is an apartment in a nine unit apartment building in Kelowna. The tenancy began on October 7, 2016 for a fixed term ending October 31, 2017 and thereafter on a month to month basis. Rent in the amount of \$895.00 is payable on the first of each month. The tenants paid a security deposit of \$447.50 on October 6, 2016.

The landlord's representative testified that since the tenancy began the other occupants of the rental property have complained about the behavior of the tenants. The

landlord's representative testified that there has been a constant traffic of people coming to and from the rental unit on a 24 hour, seven days per week basis. The tenants have disturbed other occupants with late night parties, smoking in the rental unit and fights on the rental property. The landlord's representative submitted photographs of damage to the laundry room caused by a guest of the tenants, who pulled laundry machines from the wall, tore apart drywall and pulled out electrical wiring in an effort to locate \$800 in cash said to have been hidden there the previous night while a party was underway in the rental unit.

The landlord's representative testified that the tenants appear to be using and trafficking in drugs out of the rental unit. On November 28, 2016 the landlord's representative personally served the tenants with a one month Notice to End Tenancy for cause. The tenants have not applied to dispute the Notice to End Tenancy; they have refused to move out of the rental unit. The landlord inspected the rental unit on December 3, 2016. She said in a written statement that the tenants were intoxicated by drugs and incoherent. The rental unit was badly damaged and there were four to five bicycles in various stages of disassembly in the apartment.

The landlord's representative submitted a further statement setting out events that occurred on December 14, 2016 when she encountered a man at the door of the rental property attempting to break-in with a screwdriver. He left when she threatened to call the police. When the landlord's representative went to the rental unit to ask the tenants if they knew the man she had encountered, she observed that in addition to the tenants there were four other men and a young girl in the rental unit. She saw drug paraphernalia in the apartment. When she confronted a stranger in the rental unit about their activities, she was physically assaulted by another man who grabbed her, lifted her up the wall and pinned her there. The landlord's representative was able to get away and leave the rental unit, but she was frightened and physically hurt in the altercation. She reported the matter to the RCMP, who attended the rental property and spoke to the occupants and to the person who assaulted her. The police have attended since then to deal with a fight in the hallway between several of the tenant's guests.

The landlord testified that because of the tenants' conduct she has applied for an early end of tenancy. She provided statements from other occupants of the rental property, all of whom are disturbed and frightened by the tenants and their guests. She also submitted video evidence showing the traffic to and from the rental unit. Several of the other occupants have told the landlord that they will move out of the rental property if the tenants are not evicted.

### Analysis

Section 56 (2) of the *Residential Tenancy Act* permits me to make an order specifying an earlier date for the end of a tenancy than would be the case had the landlord issued a one month notice to end a tenancy for cause, only if I am satisfied that, among other matters, the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord of the rental property, or have seriously jeopardized the health or safety or the lawful right or interest of the landlord or another occupant, and it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect. Section 56 (3) of the *Act* provides that: If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

The evidence of the landlord has satisfied me that the tenants and their guests or invitees have significantly interfered with or unreasonably disturbed the other occupants, have put the landlord's property at significant risk and it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect. The landlord's representative has been physically assaulted and the tenants or their guests have caused extraordinary damage to the rental unit and the rental property. Accordingly I order the tenancy to be at an end effective today, January 4, 2017 and I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an Order of that Court.

### Conclusion

The landlord's application has been granted and an order of possession issued.

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: January 04, 2017

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Residential Tenancy Branch