



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for Cause and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on February 01, 2017. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the One Month Notice to End Tenancy for Cause?

### Background and Evidence

The landlord testified that this month to month tenancy started on February 01, 2014. The tenants' rent for this unit is currently \$875.00 per month. Rent is due on the 1<sup>st</sup> day of each month. The tenants paid a security deposit of \$425 on January 27, 2014 and the landlord continues to hold this in trust.

The landlord testified that they have received complaints from other tenants living in the unit about noise from these tenants. The tenants have disturbed other tenants with yelling and screaming. The landlord referred to a compliant letter from another tenant.

The landlord testified that there was a water leak coming from the tenants' unit and the tenants refused to allow the landlord to enter their unit to do an emergency repair. The water was coming into the unit below. The landlord had to call the police so they could affect enter to the unit. When the police arrived the tenants yelled and swore at the landlord and the police officers.

The landlord testified that the tenants were served a One Month Notice to End Tenancy for cause (the Notice) on December 24, 2016 by posting it to the tenants' door. The landlord has provided a copy of the Notice in documentary evidence. The Notice has an effective date of January 31, 2017 and indicates that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonable disturbed another occupant or the landlord and has put the landlord's property at significant risk.

The landlord testified that he is unsure if the tenants have vacated the rental unit and they have not returned the keys to the landlord. The landlord therefore seeks an Order of Possession effective as soon as possible.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord. When a tenant is served with a One Month Notice to End Tenancy the

tenant is provided with information on page two of that Notice about how the tenant can dispute the Notice by filing an application for Dispute Resolution. The Notice was served by posting it to the door of the rental unit and therefore was deemed served on December 27, 2016. The tenants did not file an application to dispute the Notice within the 10 allowable days as indicated on page two of the Notice and have not attended the hearing today.

Consequently, as the tenants did not file an application to dispute the Notice the tenants are presumed to have accepted the end of the tenancy pursuant to s. 47 (5) of the *Act*. The landlord is therefore entitled to an Order of Possession pursuant to s. 55 of the *Act*.

As the landlord's application has merit I find the landlord is entitled to recover the filing fee from the tenants of **\$100.00**. The landlord may retain this amount from the tenants' security deposit leaving a balance of **\$325.00** which must be dealt with at the end of the tenancy in accordance with s. 38 of the *Act*.

### Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service upon the tenants**. This Order must be served on the Respondents. If the Respondents 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.

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: March 01, 2017

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Residential Tenancy Branch