



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTY MANAGEMENT LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MND, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the Residential Tenancy Act ("the Act") for an Order of Possession for Cause pursuant to section 55; a monetary order for damage to the rental unit pursuant to section 67; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although the teleconference remained open until 9:59 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord testified that a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") was served to the tenant on February 16, 2017 by posting the notice on the tenant's door. The landlord submitted a proof of service document signed by a witness. Based on the landlord's undisputed testimony, documentary evidence and in accordance with section 88 and 90 of the Act, I find that the tenant was deemed served with the 1 Month Notice on February 19, 2017 (3 days after its posting).

The landlord gave sworn undisputed testimony that his Application for Dispute Resolution hearing package ("ADR") was served by attaching the package to the tenant's door on March 3, 2017. The landlord testified that further evidence submitted for this hearing was served to the tenant on March 9, 2017 in person in the presence of a witness. With respect to the subsequent evidence package, I find that those materials were served in accordance with section 88 of the Act.

However, with respect to the service of the landlord's ADR, I make two separate findings. First, I find that the tenant was sufficiently served with the ADR and evidence package in accordance with section 89(2) and 90 of the Act with respect to the landlord's application for an Order of Possession. The tenant was deemed served with

the landlord's ADR with Notice of Hearing document for this hearing in relation to the application for an Order of Possession on March 6, 2017 (3 days after its posting).

With respect to service of the landlord's ADR in relation to his application for a monetary order, I find that the service by posting on the tenant's door is insufficient pursuant to the provisions of section 89(1). Section 89 is reproduced here in part as further clarification,

### **Special rules for certain documents**

**89** (1) An application for dispute resolution ..., when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;...

(2) An application by a landlord under section 55 [*order of possession for the landlord*], ... must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
- (b) by sending a copy by registered mail to the address at which the tenant resides;
- (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;...

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

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

### Background and Evidence

This tenancy began on June 1, 2016. The landlord submitted a copy of the residential tenancy agreement indicating a fixed term of one year, a rental amount of \$790.00 payable on the first of each month. The landlord continues to hold a \$395.00 security deposit paid at the outset of the tenancy.

The landlord testified that, on February 2, 2017, he found a note from the tenant indicating that she had changed the locks. The landlord testified that he asked the tenant to change the locks back but she did not do so. On March 16, 2017, after several attempts to speak with the tenant by phoning and leaving a letter for her, the landlord had a locksmith attend to the rental unit and change the locks to match a master key.

The landlord testified that he has regularly called and sent letters to the tenant advising her that he will provide her with a key to the new lock. The landlord testified that he has not provided the tenant with a new key to the rental unit although he has tried to arrange to provide it to her. The landlord testified that he believes the tenant is still residing in the rental unit, likely not locking the door to the rental unit. He testified he saw her in the complex as recently as last week.

The landlord testified that the living room windows to the rental unit were broken on or about February 20, 2017. The landlord submitted photographic evidence to show the damage to the windows: glass inside the residence and outside the residence. The photographs also show the broken windows. He testified that the window has not yet been repaired for several reasons including the inability to contact the tenant to have access to her rental unit.

The landlord testified that, if the tenancy comes to an end, he will have to remove all the items in the tenant's rental unit. He submitted a quote for junk removal along with a quote to repair the window and a receipt for changing the locks. The landlord submitted some photographs looking in from the broken window to the tenant's unit.

The landlord issued a 1 Month Notice to End tenancy for Cause on February 16, 2017 with an effective date of March 31, 2017. The landlord submitted a copy of the 1 Month Notice, citing the following reasons for the issuance of the Notice:

- *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.*

- *[Tenant has breached a material term] of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord submitted copies of letters to the tenant from October 2016 to February 2017. These letters include notices of complaint by the tenant for; changing the locks, a flood in her apartment, damage to the window and other matters including noise complaints. The landlord testified that the tenant is a problem tenant and he is concerned about further damage to the residential premises.

### Analysis

The landlord issued a 1 Month Notice to End tenancy for Cause, citing the following reasons for the issuance of the Notice:

- *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.*
- *[Tenant has breached a material term] of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

Based on the landlord's testimony, documentary evidence, quotes and invoices as well as photographic evidence, that the landlord has shown the tenant has put the landlord's property at significant risk. I do not need to consider the other grounds of the Notice to End Tenancy. I am satisfied that the landlord has made several attempts to speak to the tenant and to provide opportunities to address his concerns. I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause.

Finally, I note that the tenant has not made a successful application pursuant to section 47(4) of the Act within ten days of receiving the 1 Month Notice. The tenant has failed to attend in response to the landlord's application. In accordance with section 47(5) of the Act, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by the effective date of the 1 Month Notice: March 31, 2017. As that has not occurred, I find that the landlord is entitled to a **2 day Order of Possession**.

As I have found that the landlord has not sufficiently served the tenant with the Application for Dispute Resolution materials in relation to his application for a monetary order, I dismiss the landlord's application for a monetary award with leave to reapply.

At the end of the tenancy, the landlord will be able to provide evidence of any damage and monetary loss he might incur.

As the tenant was not properly served with the landlord's application for a monetary award, I dismiss the landlord's application to recover the filing fee for this application.

### Conclusion

I grant the landlords an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I dismiss the landlord's application for a monetary award for damage with 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 10, 2017

---

Residential Tenancy Branch