



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NO. 3 WHALLEY INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR OPC FF

### **Introduction:**

Only the landlord's agent attended the hearing and gave sworn testimony. She said the tenant was served a 10 Day Notice to End Tenancy for unpaid rent on August 25, 2017 by posting it on his door. She said they had to serve the Application for Dispute Resolution also posted on his door for he refuses to answer the door or communicate with them. I find that the tenant was legally served with Notice to End Tenancy according to section 88 of the Act and I find he is sufficiently served with the Application pursuant to section 71 (2) (c) of the Act for the purposes of this hearing. The landlord applies pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 46 or 47, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

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

Is the landlord entitled to an Order of Possession and to recover the filing fee?

### **Background and Evidence:**

Only the landlord's agent attended and was given opportunity to be heard, to present evidence and to make submissions. She said that this occupant was not the original tenant. He was a friend of the tenant and moved in. The tenant left and this friend continues to occupy the unit and is paying no rent. She said there are arrears of over 5 months of rent. The rent is currently \$1000 a month plus utilities and there is no security deposit.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the 10 Day Notice to End a Residential Tenancy which was served on August 25, 2017 and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

#### Monetary Order

The landlord did not request a monetary order for rental arrears on the Application. I give them leave to reapply for unpaid rent and/or damages.

#### **Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service. I find the landlord is entitled to recover filing fees of \$100 paid for this application. I give the landlord leave to reapply for unpaid rent and damages.

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: October 18, 2017

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Residential Tenancy Branch