



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC MND FF

### **Introduction:**

Both parties attended the hearing and gave sworn testimony. The One Month Notice to End Tenancy is dated October 16, 2017 to be effective November 30, 2017 and the tenant confirmed it and the Application for Dispute Resolution were served by registered mail. I find the documents were legally served pursuant to section 89 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) To obtain an Order of Possession for cause pursuant to section 47; and
- b) To recover the filing fee for this application.

### **Preliminary Issue:**

The landlord requested an amendment to his application to include a monetary order for over holding rent. The tenant admitted they had not paid rent since the effective date of the Notice to End Tenancy which was November 30, 2017 but they are still occupying the premises. She said rent is owed for December 2017, January and February 2018 as there was some problem with the support payments. I grant the amendment to include a request for a monetary order for over holding rent as it is undisputed that the tenant owes the rent.

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

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 47 and they are entitled to an Order of Possession? Is the landlord entitled to recover the unpaid rent and filing fee?

### **Background and Evidence**

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced about 4 years ago with the tenant's mother and the tenant attending the

hearing moved in later. The mother has already vacated. Rent is currently \$1000 a month and a security deposit of \$500 was paid.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by them
  - (i) has seriously jeopardized the health, safety or lawful right of another occupant or the landlord;
  - (ii) put the landlord's property at significant risk.
- b) The tenant has engaged in illegal activity that has or is likely to damage the landlord's property.

The landlord said police have had to attend the property numerous times regarding problems with the tenants. In one instance, there was a domestic dispute and police had to be called. This is seriously jeopardizing the health, safety and lawful rights of the basement tenant and putting the landlord's property at significant risk when domestic disputes with violence are happening.

The tenant said the police were there once because a neighbour had complained about stolen bikes but it was just a misunderstanding and not true. Other times they attended because her father had a heart attack. In the domestic dispute, a visitor hit her father with a chair because he was angry. She said they have arguments sometimes with the downstairs tenant but then resolve it peacefully. She said that tenant has a lady whom he wants to move in. She said they had not disputed the Notice to End Tenancy and had not filed any documents in support of her testimony.

**Analysis:**

Section 47 of the Act provides a landlord may end a tenancy if there is sufficient cause. Any one of the listed causes in section 47 may be a sufficient reason to end the tenancy. I find section 47(4) states a tenant has 10 days to dispute the Notice to End Tenancy. If they do not file an application to dispute within this time, I find section 47(5) provides they are conclusively presumed to have accepted the end of the tenancy on the date set out on the notice and must vacate the rental unit by that date. I find the tenancy ended November 30, 2017. The landlord requested an Order of Possession effective February 14, 2018 and a monetary order for the over holding rent.

Although the tenant tried to explain the frequent police presence at the home, I find she provided insufficient evidence to support her statements. I find the landlord's evidence credible that the domestic dispute involving violence seriously jeopardized the health,

safety and lawful right of the basement tenant and put the landlord's property at significant risk as a visitor hit another tenant with a chair, according to the tenant.

I find the tenant owes rent for December 2017, January 2018 and half of February 2018 as she is required to vacate on February 14, 2018.

**Conclusion:**

I find the landlord entitled to an Order of Possession effective February 14, 2018 and to a monetary order as calculated below. I find he is entitled to recover the filing fee for this application and to retain the security deposit to offset the amount owing.

Over holding rent Dec., Jan., and half of Feb. 2018 (\$1000+\$1000 + \$500)	2500.00
Filing fee	100.00
Less security deposit	-500.00
<b>Total Monetary Order to Landlord</b>	<b>2100.00</b>

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: February 06, 2018

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Residential Tenancy Branch