



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC FF

### **Introduction:**

The landlord who is represented by the manager attended the hearing and gave affirmed testimony. The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. on October 25, 2018. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said they served on July 8, 2018 the One Month Notice to end Tenancy for cause to be effective August 31, 2018. They said they served the Application for Dispute Resolution by registered mail and provided evidence that the tenant signed for it. They also filed and served an Amendment to claim the unpaid rent. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause;
- b) A Monetary Order for unpaid rent; and
- c) 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, a monetary order for unpaid rent and to recover the filing fee?

### **Background and Evidence:**

The landlord requested that a typographical error in the landlord's name be corrected. The correction was granted. The undisputed evidence is that the tenant commenced

living in the premises June 1, 2017, a security deposit of \$525 was paid and rent is currently \$1050 a month. The landlord testified they served the Notice to End Tenancy pursuant to section 47 of the Act for the following reasons:

1. The tenant or a person permitted on the property by the tenant has
  - (a) Significantly interfered with or unreasonably disturbed another occupant or the landlord.

The landlord provided copies of a warning letter sent to the tenant about her excessive noise and written complaints from other tenants concerning continuous music and stomping on April 6-8, 2018, then three other complaints for excessive noise and shouting on May 25, June 2, June 4 and July 8, 2018. There were complaints of drinking and fighting. The landlord said the tenant's offending behaviour had gone on for a long time and she decided to take action after so many complaints. She said the tenant would not accept that the noise from her unit was excessive and she was seriously disturbing the man next door who could not sleep due to noise, even in the middle of the night. He told the landlord it affected his work. The landlord requests an Order of Possession effective two days from service. She said the tenant said she was moving out anyway on October 29, 2018.

In the Amendment, the landlord requests a monetary order for \$1050 in unpaid rent. She said the tenant did not pay rent for September of October 2018 but then gave her payment of \$800 + \$250 in October.

On the basis of the 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. I find they satisfied the onus of proving on a balance of probabilities that the tenant is significantly interfering with and unreasonably disturbing other tenants. Also, the Tenant has not made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy 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**

I find that there is over holding rent in the amount of \$1050.00 to October 31, 2018.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

Calculation of Monetary Award:

Over holding rent	1050.00
Filing fee	100.00
<b>Total Monetary Order to Landlord</b>	<b>1150.00</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: October 25, 2018

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Residential Tenancy Branch