



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC

### **Introduction:**

Both parties attended the hearing and gave sworn testimony. The landlord said they personally served on August 31, 2018 the One Month Notice to end Tenancy for cause dated August 31, 2018 to be effective September 30, 2018 and a witness signed they observed this. They said they served the Application for Dispute Resolution personally also. The tenant's boyfriend gave evidence that the Notice to End Tenancy was posted on the door on August 1, 2018. 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.

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

Is the landlord entitled to an Order of Possession?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises on May 1, 2017 on a fixed term lease to April 30, 2018 which became a month to month lease thereafter. A security deposit of \$462.50 was paid and rent is currently \$925 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 has allowed an unreasonable number of occupants in the unit;
2. 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;
  - (b) Seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
3. The tenant has engaged in illegal activity that has, or is likely to:

- c) adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
- d) jeopardize a lawful right or interest of another occupant or the landlord.
- 4. There is a material breach of the tenancy agreement that was not corrected within a reasonable time to do so;
- 5. The tenant has assigned or sublet the rental unit without the landlord's written consent.
- 6. The tenant knowingly gave false information to a prospective tenant or purchaser of the rental unit.

In evidence are 3 letters of complaint about the tenant's noise, parties, physical and verbal fighting and alcohol use which are significantly and unreasonably disturbing other tenants. One letter states that they had to call the police and they are considering bringing an application to the Residential Tenancy Branch against the landlord for not protecting the peaceful enjoyment as required by section 28 of the Act. The landlord said they gave letters to the tenant detailing noise complaints on April 11, June 6 and June 18, 2018 but the noise and disturbance has continued as evidenced by the complaint letters from other tenants in August 2018.

The tenant wrote a note saying she got the Notice but it is not her making the noise, it is her boyfriend and his friends. Her boyfriend, who was assisting her in the hearing, said she did not write the note but when I described its appearance, he agreed it was from her note pad. He said the tenant has a mental disability and does slam doors and yells. He said they filed an Application on August 1, 2018 disputing this Notice to End Tenancy. However, he could supply me with no file # and I searched our records and found no evidence of this. He also said the tenant got no evidence from the landlord but the tenant agreed in the hearing that she had received the evidence. When the landlord suggested an Order of Possession could be issued for November 30, 2018 to give the tenant some time to move, the boyfriend argued it was unreasonable, the process was unreasonable for the hearing had to do with the tenant having too many guests. He said he is trying to protect the tenant.

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. Section 47(4) of the Act provides that when a tenant receives a Notice to End Tenancy under section 47, they

have 10 days to dispute the Notice. I find insufficient evidence that the tenant disputed the Notice. 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 which was September 30, 2018. Furthermore, I find the weight of the evidence is that the tenant and/or her friends are significantly and unreasonably disturbing the peaceful enjoyment of other tenants. I find the complaints in evidence support the landlord's testimony. Even if the tenant has a mental disability as alleged by her boyfriend, this does not permit her or her guests to significantly and unreasonably disturb the peaceful enjoyment of other tenants. An Order of Possession is issued effective November 30, 2018 as requested by the landlord.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective November 30, 2018. No recovery of the filing fee was requested so none is awarded.

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: November 13, 2018

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Residential Tenancy Branch