



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Prospero International Realty  
Inc. and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      OPC

### **Introduction**

This hearing was convened in response to an application for dispute resolution by the Landlord seeking an order of possession pursuant to section 55 of the *Residential Tenancy Act* (the “Act”).

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and all evidence (the “Materials”) by posting the Materials on the door of the unit on May 25, 2019 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by posting on the door, on the 3rd day after it is posted. Given the evidence of service I find that the Tenant is deemed to have received the Materials on May 28, 2019. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions.

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

Is the Landlord entitled to an order of possession?

### **Background and Evidence**

The tenancy under written agreement started on February 11, 2019. The tenancy agreement contains an error on the rental amount and should read that rent of \$450.00

is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$225.00 as a security deposit. On May 1, 2019 the Landlord served the Tenant with a one month notice to end tenancy for cause (the "Notice") by posting the Notice on the unit door. The Notice sets out two reasons with details set out on the second page. The details set out that the Tenant has beer bottles, cigarette butts, drug paraphernalia and an air cooker in the unit. The details also set out that the Tenant screamed and yelled threats for a half hour disturbing other tenants. The Landlord has evidence of the Tenant burning narcotics in the unit causing a risk of fire. The Tenant did not dispute the Notice and although the Tenant is no longer in the unit, the Tenant's possessions have not been removed.

### Analysis

Section 47(1)(d)(ii) and (iii) of the Act provides that a landlord may end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant or has put the landlord's property at significant risk. Based on the undisputed evidence of the Landlord I find that the Landlord has substantiated that the Notice is valid for its stated reasons.

Section 47(5) of the Act provides that if a tenant who has received a notice to end tenancy for cause does not make an application for dispute resolution within 10 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Based on the Landlord's undisputed evidence of the date of service of the Notice I find that the time allowed for the Tenant to dispute the Notice has expired. Based on the Landlord's undisputed evidence I find that the

Tenant received the Notice, did not dispute the Notice and has not moved its belongings out of the unit. The Landlord is therefore entitled to an order of possession.

Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 04, 2019

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Residential Tenancy Branch