



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding W2 Group Developments Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      OPC MNDL MNDCL

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause pursuant to section 55; and a monetary order for damage to the unit, site, or property, money owed or compensation for loss under the *Act*, regulation or tenancy agreement pursuant to section 67

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 11:21 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 am. The landlord was given a full opportunity to be heard, 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. During the hearing, I also confirmed from the online teleconference system that the landlord, landlord's witness, and I were the only ones who had called into this teleconference.

The landlord gave sworn testimony that on November 14, 2020, the landlord's Application for Dispute Resolution hearing package and evidence were sent to the tenant by way of registered mail. The landlord provided a tracking number during the hearing. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the landlord's application and evidence on November 19, 2020, five days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord provided sworn testimony that the tenant was personally served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice') on August 19, 2020. JA testified that he witnessed the service of the 1 Month Notice. In accordance with sections 88 and 90 of the *Act*, I find that the tenant deemed served with the 1 Month Notice on August 22, 2020, 3 days after posting.

### **Issues to be Decided**

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to a monetary order for damage or losses?

### **Background and Evidence**

This month-to-month tenancy began in May of 2015. Monthly rent is set at \$900.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$450.00, which they still hold.

The landlord issued the 1 Month Notice on the following grounds:

1. The tenant has allowed an unreasonable number of occupants in a rental unit;
2. The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
3. The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlords;
4. The tenant or a person permitted on the property by the tenants has put the landlord's property at significant risk;
5. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property;
6. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant;
7. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has jeopardized the health or safety or lawful right of another occupant or the landlord.
8. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park;
9. Tenant has not done required repairs of damage to the unit/site/property/park
10. Tenant has assigned or sublet the rental unit/site/property/park without the landlord's written consent.

The landlord submitted detailed evidence, including numerous photographs, to show that the tenant, or persons permitted on the property by the tenant, have caused considerable damage to the home. The landlord submitted included a copy of a warning letter dated June 11, 2020 sent by the district for a contravention of a bylaw. The landlord testified that he was unable to perform the extensive repairs now required to the home.

### **Analysis**

A copy of the 1 Month Notice was submitted by the landlord for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file an application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, September 30, 2020.

In this case, this required the tenant and anyone on the premises to vacate the premises by September 30, 2020. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. As this tenant has not yet vacated the rental unit, I find the landlord's application related to the damages and losses associated with this tenancy to be premature. Accordingly, I dismiss the landlord's monetary claim for losses with leave to reapply.

### **Conclusion**

I find that the landlord is entitled to an Order of Possession. I find that the landlord's 1 Month Notice is valid and effective as of September 30, 2020

I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's monetary claim for losses with leave to reapply.

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: January 11, 2021

---

Residential Tenancy Branch