



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Cyclone Holdings Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPT

### Introduction

This hearing was convened in response to applications by the tenant's estate pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows

- an Order of Possession for the tenant pursuant to section 54 of the *Act*.

The tenant's agent, C.Y., and the landlord's agent, P.B. attended the hearing by way of conference call. All parties were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11.

The parties confirmed receipt of each other's evidentiary packages and the landlord confirmed receipt of the tenant's application for dispute. All parties are found to have been served with all applicable documents in accordance with the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to an Order of Possession?

### Background and Evidence

The parties explained the tenant D.H. named in the application passed on February 6, 2022. The tenant's estate was represented at the hearing by agent C.Y.

C.Y. explained he wished to receive an Order of Possession to gain access to the rental unit. C.Y. said the tenant passed and that the landlord assumed control of the rental unit

without proper and prior permissions. C.Y. alleged the tenant's estate were barred entry from the unit and that the apartment was re-rented in April 2022.

C.Y. said that in addition to an Order of Possession, he sought a finding that the locks were illegally changed, and he wished for a referral being made to the RTB's Compliance and Enforcement Unit.

The landlord acknowledged that the unit had been re-rented, however, she noted the items had been placed into storage and she awaited communication from the tenant's estate regarding a return of personal items.

### Analysis

Section 54 of the *Act* notes, "A tenant who has entered into a tenancy agreement with a landlord may request an Order of Possession of the rental unit by making an application for dispute resolution, the director may grant an order of possession to the tenant under this section before or after the date on which the tenant is entitled to occupy the rental unit under the tenancy agreement, and the order is effective on the date specified by the director."

*Policy Guideline #51* states, "Tenants should be aware that the director may not be able to grant an order of possession to a tenant in circumstances where another renter is occupying the rental unit; however, the tenant may file a separate application for monetary compensation from the landlord for any damage or loss they may have suffered."

Based on the application presently before me, and following the direction above under the *Policy Guideline*, I find I am unable to provide any relief to the tenant based on the application for an Order of Possession as the rental unit was re-rented in April 2022 and is presently occupied. I therefore dismiss the tenant's application without leave to reapply.

### Conclusion

The tenant's application for an Order of Possession is dismissed without 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: April 25, 2022

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Residential Tenancy Branch

I make no finding of fact related to any potential compliance issues. Further information for the public can be found below.

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/solving-problems/compliance-and-enforcement>