



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS AGENCIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes    OPC

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an Order of Possession for Cause, based on a One Month Notice to End Tenancy for Cause dated February 2, 2022 ("One Month Notice").

Two agents for the Landlord, D.S. and K.W. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenants. The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only persons to call into the hearing were the Agents, who indicated that they were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, were the Agents.

I explained the hearing process to the Agents and gave them an opportunity to ask questions about it. During the hearing, the Agents were given the opportunity to provide their evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenants did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agents testified that they served each Tenant with the Notice of Hearing documents by Canada Post registered mail, sent on March 2, 2021. They said each Tenant was served with the Landlord's documentary submissions by registered mail sent on May 9, 2022. The Agents provided Canada Post tracking numbers as evidence of service of all

of these documents. I find that the Tenants were deemed served with the Notice of Hearing documents and evidence in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agents in the absence of the Tenants.

### Preliminary and Procedural Matters

The Landlord provided their email address in the Application and the Agents confirmed it in the hearing. However, they did not have an email address for the Tenants; therefore, the Decision will be sent to the Tenants by mail to the rental unit address, and by email to the Landlord, and any Orders will be sent to the appropriate Party in this manner.

At the outset of the hearing, I advised the Agents that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised them that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

### Issue(s) to be Decided

- Is the Landlord entitled to an order of possession?

### Background and Evidence

The tenancy agreement submitted by the Landlord states, and the Agents confirmed in the hearing that the periodic tenancy began on the October 1, 2019, with a (current) monthly rent of \$913.00, due on the first day of each month. The Agents confirmed that the Tenants paid the Landlord a security deposit of \$450.00, and a pet damage deposit of \$450.00. The Agents verified that the Landlord still holds both deposits in full.

The Agents submitted a copy of the One Month Notice and, in the hearing, they confirmed that it contains the following details. The One Month Notice was signed and dated February 2, 2022, it has the rental unit address, it was served via registered mail on February 2, 2022, with an effective vacancy date of March 31, 2022. The One Month Notice was served on the grounds that the Tenants or a person permitted on the property by the Tenants 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; another ground is that the Tenants have breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

In the hearing, the Agents testified, as follows:

There have been numerous issues that resulted in the One Month Notice, but the main issue is that the Tenants are drug dealers and there have been people brought to the building creating dangerous situations for the other tenants. We have testimony from the other tenants in the building, as well as having sent warning letters.

The Agents submitted a copy of the tenancy agreement with sections highlighted to draw attention to the clauses which the Tenants have breached. For instance, some of the highlighted sections included:

6. USE OF PREMISES. Tenants and guests shall use the premises for PRIVATE RESIDENTIAL PURPOSES ONLY and not for any illegal, unlawful, commercial or business purposes. No public meetings or assemblies shall be held on the premises. No business or commercial advertising shall be placed on or at the premises.... .

[emphasis in original]

The Agents said that other tenants have witnessed the Tenants' activities, including dealing drugs. The Agents submitted handwritten evidence from other tenants about this matter, which includes the following (the reporting tenants' names and initials have been removed for their protection):

Aug 8<sup>th</sup> 2020

11 AM – Red SUV arrive picked up [Tenant]. Drugs were passed. SUV left.

1 pm – teal car pulls up. [Tenant] gets in drugs were passed, car left.

Aug 8<sup>th</sup>

Drugs being done in our back parking lot.

People camping in the trees

Aug 9<sup>th</sup>

230 AM Homeless people outside the front door. One in the apple tree.

1030 AM – Red car driving around building looking for [Tenant] (pill dealer)

There were a number of other similar incidents reported for 2020 and 2021; however,

more recent reports include the following:

04/04/2022

I was outside at the back of the building I saw 2 people. I asked them why they were there they said to see [the Tenant]. I told them to not hang around. I went inside the building and upstairs, when I looked down they had come to the front and were attempting to enter the building.

Regular problems with people approaching tenants for entry looking for [the Tenant] to buy drugs. [The Tenant] has admitted 'ONLY MARAJUANA' and off grounds. He's lying. I have witnessed drug soliciting following other tenants in. I stopped them and told them to leave the building. They were clearly impaired on drugs. I told them not to come back. If you know [the Tenant], call him, do not bother other people to let you in. Basically, I've had to physically had to remove purchasers from the building .

Another tenant wrote:

15/04/22

Neighbour next door. People are coming in/out of the apartment, homeless people coming in, hanging around out in front of the building, back of the building during the night. People coming in/out of the apartment suite. . . . Its scary when they're outside for no reason.

Another tenant wrote:

02/05/2022

Complaint against [the Tenant]

Selling drugs at front door. When leaving for lunch I witnessed Tenant from [rental unit] telling older man to wait at the door. I asked older man if he was there to buy drugs, and he said yes.

This is a constant problem with this Tenant and people are afraid of the type of characters this brings to the building plus worried about retaliation from [the Tenant].

I asked the Agents how they and the other tenants could tell that the Tenant was dealing drugs. They said:

It's been witnessed by numerous tenants, and he is not discreet. You can see them in his hands I have witnessed it myself and discussed it with him to not do it. We have found packages of drugs people have dropped on the property. I have taken them to the police and they said they are drugs. The people are not discreet and it's clear.

One thing that is scary for tenants is that a lot of bad people come to the building to purchase. They throw rocks at his suite and he's on the third floor. And they are yelling up at all hours of the evening, into the early morning, even to 4 a.m. They have admitted to me that they are there to buy drugs. We have wonderful tenants and there are children here. They rip off the doors to get at it. He has admitted to me that he is selling drugs. I just can't let it happen anymore for the safety of the other tenants

The Landlord submitted a copy of a letter another agent sent to the Tenants dated June 28, 2021. This letter states:

Dear Tenants,

RE: Complaint of Illegal Activity in your suite

It has come to our attention that there are illegal activities happening in your suite. This activity is contrary to the conditions of your tenancy agreement with the Landlord. When you moved into your suite you were advised that should illegal activity happen it could be grounds for the immediate delivery of a Notice to end your tenancy.

**Please be advised this is the only letter you will receive.**

Should we be advised again of illegal activity continuing by your or your guests; we will have no alternative but to deliver a One Month Notice to end your tenancy.

Please conduct yourself in a manner that protects your tenancy.

Sincerely,  
[Landlord]  
Signature  
[E.H.], Property Manager

In their closing statements, the Agents said that they have had a lot of contact with the police, who "...are very familiar with the happenings." They added:

I just feel that this one is pretty scary and these people have been given a lot of time to change their ways and they refuse to. They don't care about any other tenant other than themselves. We're doing this for the safety of the tenants; and I'm a bit scared myself.

There are more details within the pages of this evidence. It is pretty sufficient to prove the claim, and at the end of the day we just want the rest of the tenants to be safe, and comfortable and be safe in their own homes.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Pursuant to section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

. . .

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

Based on the undisputed evidence before me overall in this matter, I find that the Landlord has provided sufficient evidence to meet their burden of proof on a balance of probabilities to end this tenancy.

Further, section 47 (5) of the Act states that if a tenant who has received a One Month Notice does not apply 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.

As there is no evidence before me that the Tenants disputed the One Month Notice, I find that they are conclusively presumed under section 47 (5) of the Act to have accepted the One Month Notice, and I find that the tenancy, therefore, ended on March 31, 2022. As a result, I find that the Tenants are overholding the rental unit and the Landlord is therefore entitled to an Order of Possession pursuant to section 55 (2) (b) of the Act. As the effective date has passed, the Order of Possession will therefore be effective two days after service on the Tenants.

### Conclusion

The Landlord is successful in their Application for an order of possession, as they provided sufficient evidence to meet their burden of proof on a balance of probabilities.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. The Landlord is provided with this Order in the above terms and the Tenants must be served with **this Order** as soon as possible.

Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 02, 2022

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Residential Tenancy Branch