



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## DECISION

**Dispute Codes:** CNC, OPC

### **Introduction**

This application was brought by the tenants seeking to have set aside a Notice to End Tenancy for cause dated July 9, 2008 and setting an end of tenancy date at August 31, 2008.

The tenants also sought an extension of the 10-day period within which they are permitted to make application to dispute the notice. The application was filed on August 11, 2008, a month after the notice was served.

Section 66 of the *Act* allows for an extension of time to make such application only in the case of exceptional circumstances. In this instance, the tenants' claim difficulty contacting the Residential Tenancy Branch and their late discovery of the possibility of a fee waiver.

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

This application requires a decision on whether to permit the time extension and accept the tenants application, and if so, whether to set aside or uphold the notice, and if the notice is upheld, whether to grant the landlord's request for an Order of Possession.

## **Background and Evidence**

This tenancy began April 18, 2008. Rent is \$750 per month and the landlord holds a security deposit of \$375 paid on April 19, 2008

During the hearing, the landlord gave evidence that the notice to end had been served following an incident in which a neighbouring tenant said he witnessed the female tenant kick in the patio door to her own suite. The police were called, and the female tenant was taken into custody.

In her account of events, the female tenant said it was the reporting neighbour who had kicked in the patio door out of spite for his rebuked attempt to buy drugs from her. She said that she had not used drugs for a year and that the fact that the door had been kicked in from the outside supported her contention.

The landlord stated that this incident was the latest in a series of events and complaints against the tenants including their having been party to a total of four police calls to the residential building, and had been cited as the cause of one tenant moving out and another's filled request to be relocated in the building away from the subject rental unit.

He said that he had been witness to very loud verbal exchanges and foul language between the applicant tenants and, among others, had received reports of a disturbance in the hallways arising from the female tenant having pepper sprayed the male tenant.

## **Analysis**

On the preliminary matter of whether to accept the tenants' application late, I find that their stated reason of finding difficulty in connecting with the branch for advice and their late discovery of the available fee waiver do not constitute the exceptional

circumstances contemplated by Section 66 of the *Act*. Therefore, the application is dismissed without leave to reapply.

On hearing that determination, the landlord requested an Order of Possession as permitted by section 55(1) of the *Act* which compels me to issue such order when requested orally by the landlord when a the tenants' application to set aside a notice to end has been dismissed or the notice upheld.

### **Conclusion**

Accordingly, I find that the landlord is entitled to an Order of Possession effective on September 30, 2008 as requested. The landlord's copy of this decision is accompanied by the Order of Possession, enforceable through the Supreme Court of British Columbia, for service on the tenants.

September 11, 2008

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