



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPR, OPL, MNR, MNSD, FF  
MT, CNC, CNL, O

### Introduction

This hearing dealt with cross application by the landlord and tenant. The application by the landlord is for an order of possession for cause, an order of possession for breach of the tenancy agreement and recovery of the filing fee. The application by the tenant is to allow the tenant more time to make an application, to cancel a notice for landlord's use of property, money owed or compensation for damage or loss, to order the landlord to comply with the act, make emergency repairs, suspend or set conditions on the landlord's right to enter, other and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

### Background and Evidence

This tenancy began May 6, 2011 with monthly rent of \$800.00 and on July 17, 2011 the tenant paid a security deposit of \$400.00. On June 22, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has put the landlord's property at significant risk.
- The tenant is in breach of a material term of the tenancy agreement and has not corrected it within a reasonable time after written notice to do so
- The tenant has not paid the security deposit or pet damage deposit within 30 as required by the tenancy agreement.

The landlord testified that as the tenant has not paid the August 2011 rent the landlord wished to move forward with an order of possession for the rental unit. The tenant testified that she did not file for dispute resolution when she received the notice to end tenancy as she knew the landlord was going to make an application. The tenant stated that it was only when her relationship with the landlord further deteriorated that she decided to file for dispute resolution. It was verified in this hearing that the tenant had page 2 of the 1 Month Notice to End Tenancy for Cause which clearly states:

**INFORMATION FOR TENANTS WHO RECEIVE THIS NOTICE TO END TENANCY**

- *You have the right to dispute this Notice within 10 days after you receive it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. A Dispute Resolution Officer may extend your time to file an Application, but only if he or she accepts your proof that you had a serious and compelling reason for not filing the Application on time.*

- *If you do not file an Application within 10 days, you are presumed to accept this Notice and must move out of the rental unit or vacate the site by the date set out on page 1 of this Notice (You can move out sooner.) If you do not file an Application, move or vacate, your landlord can apply for an Order of Possession that is enforceable through the court.*

The tenant in this application is seeking the following:

#### Water softener and water softener salt

The tenant is requested a water softener and water softener salt. The landlord stated that this is not something she provides tenants and that the other tenants on the property do not have a water softener.

#### Steps

The tenant is requesting that the steps be repaired or replaced. The landlord stated that the tenant sent the landlord a text stating that she had 'torn out the steps and was making a new set'. The tenant stated that the steps have since been replaced.

#### Furnace Filters

The tenant stated that the landlord provided information on how to replace the furnace filter and the filter has since been replaced.

#### Replacement cost of nebulizer and tubing

The tenant claims that it was the landlord's dog that damaged the nebulizer and that she had taken a piece of the tubing away from the dog. The landlord stated that the tenant had left numerous items unsecured in the yard and carport and as there are two dogs on the property the landlord could not confirm which dog potentially chewed the items. The landlord questioned why the tenant left valuable property within reach of the tethered dog.

#### Pellets for pellet stove

The tenant requested that the landlord supply pellets for the wood stove. The landlord stated that this is not something she provides tenants and that the other tenants on the property provide their own. The tenant stated she has since bought pellets.

#### Damaged doll collection

The tenant claims that it was the landlord's dog that damaged her doll collection. The landlord stated that the tenant had left numerous items unsecured in the yard and

carport and as there are two dogs on the property the landlord could not confirm which dog potentially chewed the items. The landlord questioned why the tenant left valuable property within reach of the tethered dog.

#### Repairs resulting in eradicating cat spray

The tenant stated that the landlord left the cat locked in the house and that it sprayed and relieved its self all through the rental unit. The landlord stated that the cat accidentally got locked in the house overnight and did not believe that the cat's actions had been that extensive.

The tenant in this application is requesting the following in compensation:

- \$3600.00 Reimbursement for four months rent for loss of quiet enjoyment and harassment
- \$3600.00 Cost for tenant having to clean rental unit upon occupancy
- \$280.00 Industrial cleaning supplies
- \$5000.00 Punitive and aggravated damages
- \$143.97 Cost for replacement of nebulizer and tubing
- \$200.00 Damaged doll collection

The parties in this hearing agreed that the tenant would vacate the rental unit on August 20, 2011 at 1:00PM. The landlord agreed to accept a pro-rated amount of rent from the tenant and from August 6 to August 20 this amount will equate to \$387.00. The tenant and landlord will conduct a move-out inspection together on August 21, 2011 and if the unit is found to be in acceptable condition the landlord and tenant have agreed for the landlord to deduct the \$387.00 from the tenant's \$400.00 security deposit.

#### Analysis

Based on the documentary evidence and testimony of the parties I find that the landlord is entitled to an order of possession based on the 1 Month Notice to End Tenancy for Cause posted on the tenant's door June 22, 2011. The tenant did not dispute this notice within 10 days as specified on the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The tenant has also not provided evidence to support a request for an extension of time to dispute the notice.

Based on the documentary evidence and testimony of the parties I find that the tenant had not met the burden of proving that they are entitled to \$3600.00 compensation for loss of peace and quiet enjoyment. The tenant states that the landlord constantly comes to the property however this is a 5 acre parcel with 2 rental units and a storage shed that the landlord utilizes. As much of this property is common space, the landlord has the right to access the property without the requirement of providing written notice to the

tenant. A landlord may also go to a tenant's door to serve documents and this disruption can be minimized by the tenant responding to the landlord.

The tenant maintains that she spent 18 days cleaning the rental unit because of the condition it was in at the start of the tenancy and the landlord's evidence directly contradicts this testimony as the landlord spent 5 days cleaning the unit prior to the tenant moving in. I find that there is insufficient evidence to support the tenant's \$3600.00 claim in this regard.

The tenant has not submitted receipts for cleaning supplies therefore this portion of the tenant's claim is dismissed.

This court does not award 'punitive and aggravated damages' therefore this \$5000.00 claim is dismissed.

The tenant states that the landlord's dog damaged a nebulizer and doll collection however the tenant did not clarify what if any steps had been taken by the tenant to mitigate any loss in this regard therefore this portion of the tenant's claim is dismissed.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

The tenant's application is dismissed in its entirety.

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, AUGUST 20, 2011**. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord is also entitled to recovery of the \$50.00 filing fee and grant the landlord a monetary order under section 67 for the amount of **\$50.00**.

If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) 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 *Residential Tenancy Act*.

Dated: August 12, 2011

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Residential Tenancy Branch