



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC / OPC

### Introduction

This hearing was scheduled in response to an application by the tenants for cancellation of a notice to end tenancy for cause. The landlord / respondent was present at the start time of the hearing, which was 1:30 p.m., and gave affirmed testimony. However, as at 1:40 p.m. the tenants / applicants had still not appeared. During the hearing the landlord made an oral request for an order of possession.

### Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The landlord lives on the main floor, and the tenants rent the basement portion of the house. The landlord testified that there is no written tenancy agreement for this tenancy which began approximately 9 years ago. Monthly rent of \$600.00 is payable in advance on the first day of each month. A security deposit of \$300.00 was collected near the start of tenancy but at some stage during the tenancy, by way of mutual agreement between the parties, the security deposit was used to offset rent.

The landlord issued a 1 month notice to end tenancy for cause dated March 1, 2012, which was personally served on the tenants on that same date. The tenants filed an application to dispute the notice on March 7, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is March 31, 2012, and the reason shown on the notice for its issuance is as follows:

Tenant or a person permitted on the property by the tenant has:

- put the landlord's property at significant risk

In summary, the landlord claims that the tenant has periodically left something on the stove and / or has failed to turn off the oven and / or burners on the stove, such that the smoke alarms in the basement and upstairs have been activated. The landlord fears that this sort of recurring oversight could eventually lead to a serious fire and the potential loss of life.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Section 55 of the Act addresses **Order of possession for the landlord**, and provides in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession,...

Pursuant to the landlord's issuance of a notice to end tenancy, the landlord's oral request during the hearing for an order of possession, and the failure of the tenants to attend the hearing scheduled in response to their application to dispute the notice, I find that the landlord has established entitlement to an order of possession.

In the absence of the tenants at the hearing scheduled in response to their application, the tenants' application is hereby dismissed.

Section 53 of the Act speaks to **Incorrect effective dates automatically changed**, and provides in part:

53(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

As the 1 month notice is dated and was served on March 1, 2012, I find that the earliest effective date of the notice is April 30, 2012, not March 31, 2012 as shown on the notice.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Monday, April 30, 2012**. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme 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: March 28, 2012.

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Residential Tenancy Branch