



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPC

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) An Order of Possession pursuant to Sections 47, and 55 for cause.

### **SERVICE:**

The landlord and a representative for the tenant attended. The landlord gave sworn testimony that he had served the Notice to end Tenancy dated June 25, 2014 by posting it on the door and the Application for Dispute Resolution personally on the tenant. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

**Preliminary Issue:** The representative for the tenant asked for an adjournment for the tenant was out of town to work. The landlord objected and said he would suffer prejudice as his other, good, long term tenants were threatening to leave because of this tenant's actions. I pointed out to the representative that the tenant could call toll free from out of town as the Application stated and we adjourned the hearing for 5 minutes while she attempted to contact him. She emailed him but he did not call into the conference. I declined to grant an adjournment as the tenant had not complied with the Residential Tenancy Branch Rules of Procedure #6 in either obtaining consent or applying more than 3 days in advance. Further, I find it was not beyond the tenant's control to call into the conference and the landlord will suffer extreme prejudice by adjourning this matter as his other long-term tenants may leave.

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

The tenant was issued a Notice to End Tenancy dated June 25, 2014 to be effective July 31, 2014 for cause. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession?

**Background and Evidence:**

The landlord and the representative of the tenant attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in December 2013, sharing a three bedroom unit with two other tenants, his rent is \$650 a month and a security deposit of \$325 was paid. The landlord has not accepted rent for August 2014.

The landlord and a witness said the tenant was repeatedly late in paying rent. One tenant collects the rent for all three and remits it to the landlord; he said the tenant was about two weeks late commencing in March 2014 but he did not want to jeopardize his own tenancy so he paid the landlord out of his own pocket. After three months, he asked the landlord if he would collect it directly from this tenant as he was finding this a strain on his finances. The landlord testified that he had had difficulty obtaining the rent for June and July from the tenant and it was late; he had to go over a number of times. He refused to go over in August for he did not want a repeat of the previous months where the tenant does not answer the door and his answering machine is turned off. The representative said that she had heard differently from the tenant and that the head tenant collected the rent but did not remit it in time.

Several other causes were presented. The tenant has parties where friends stay late at night and disturb the other tenants with loud noise; one of these friends put his fist through the door and the landlord has had difficulty in getting consent from the tenant to enter to get the door repaired. Two other tenants returned to pack up and found a canoe and painting supplies in their tent and when they removed it to the front yard, this tenant was very angry and engaged in violent outbursts that frightened them. The landlord and his witness also stated that the tenant was leaving food and dirty pots on the stove, creating very unhygienic conditions. The witness said that he enjoyed his tenancy but he would have to leave if the matter was not resolved for this tenant is seriously disturbing his peaceful enjoyment and interfering with his need for rest to be successful at his work. The representative said that the other tenants had left and this tenant was just protecting an older canoe while he refinished it. There was no need to place it in the front yard where it might be stolen; they could have left it in the backyard.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

**Order of Possession**

I find that the landlord is entitled to an Order of Possession. I find the weight of the evidence is that there is repeated late payment of rent and that the tenant's behaviour is

significantly interfering with the peaceful enjoyment of other tenants and the landlord. Although the representative said the tenant told her differently concerning rent payment, I prefer the evidence of the landlord as both the head tenant and the landlord testified they both had problems collecting the rent on time. Although the tenant may have misunderstood about the lower tenants' moving times, I find the escalation of his behaviour over the canoe incident inappropriate and likely very disturbing to other tenants. I find also the hole in the door made by a guest indicates the parties he is holding are also significantly interfering with the other tenants schedules for work or study. The Tenant has also not made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. The tenancy was at an end on July 31, 2014. The landlord agreed to have the Order of Possession effective August 31, 2014 to allow the tenant time to move. Should the tenant not pay August rent or other monies that may be owed, I give the landlord leave to reapply for monies owed to him.

**Conclusion:**

I find the landlord is entitled to an Order of Possession effective August 31, 2014 as he agreed. No filing fees were requested so none are awarded.

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 11, 2014

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Residential Tenancy Branch

