



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC, FF / OPC

### Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a 1 month notice to end tenancy for cause, and recovery of the filing fee.

Agents representing the landlord attended the hearing and gave affirmed testimony, however, the tenant / applicant did not appear. During the hearing the landlord's agents made an oral request for an order of possession.

### Issue(s) to be Decided

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

### Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on September 1, 2006.

The landlord issued a 1 month notice to end tenancy for cause dated November 28, 2012, a copy of which is in evidence. The landlord's agents testified that the notice was served in-person on that same date. The date shown on the notice by when the tenant must vacate the unit is December 31, 2012. Reasons shown on the notice for its issuance are as follows:

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

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

The tenant filed an application to dispute the notice on December 10, 2012.

Further to affirmed testimony by the landlord's agents at the hearing and a copy of the notice itself, documentary evidence in support of the notice was submitted in evidence by the landlord.

### 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 speaks to an **Order of possession for the landlord**, in part, as follows:

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, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, I find that the tenant was personally served on November 28, 2012 with a 1 month notice to end tenancy for cause, which is also dated November 28, 2012. The tenant filed an application to dispute the notice on December 10, 2012, which I find is within the 10 day period available for doing so after service of the notice on November 28, 2012, as the tenth day of December 8, 2012 fell on a Saturday.

In the absence of an appearance and testimony by the tenant at the hearing, on the basis of the affirmed / undisputed testimony of the landlord's agents, the documentary evidence, and in response to the oral request for an order of possession at the hearing by the landlord's agents, the tenant's application is hereby dismissed and I find that the landlord has established entitlement to an order of possession. The landlord's agents requested that such an order be made effective January 31, 2013.

### Conclusion

Both aspects of the tenant's application are hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective **1:00 p.m., Thursday, January 31, 2013**. This order must be served on the tenant. Should the tenant 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: January 14, 2013

