



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

CNC, FF, MNDC, RPP

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on a One Month Notice to End Tenancy for Cause dated January 30, 2014. The hearing was also to deal with a cross application by the tenant seeking monetary compensation for rent paid, moving expenses and possessions.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents by registered mail sent on March 18, 2014 as confirmed by the Canada Post tracking information, the respondent did not appear.

Therefore, the tenant's application for monetary compensation and an order to return property is dismissed and the hearing on the landlord's cross application was conducted in the respondent's absence.

### **Preliminary Matter**

During the hearing the landlord requested to amend the landlord's application to add a monetary claim against the tenant.

The landlord's request is denied on the basis that it would unfairly prejudice the respondent who did not receive advance notice to prepare to defend against the added monetary claim.

However, either the landlord is still at liberty to pursue an application for dispute resolution under section 67 of the Act, to seek monetary compensation for rent owed or losses or damages that resulted from the other party's failure to comply with the Act.

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

Is the landlord entitled to an Order of Possession based on the undisputed One Month Notice to End Tenancy for Cause?

### **Background and Evidence**

The tenancy began on an unknown date around 2008.

Submitted into evidence was a copy of the One-Month Notice to End Tenancy for Cause dated January 30, 2014, copies of communications, photos, copies of cheques and receipts.

The landlord testified that the tenant was served with a One Month Notice to End Tenancy for Cause dated January 30, 2014 and that the tenant has not disputed the Notice in their cross application.

The landlord is seeking an Order of Possession pursuant to the Notice.

### **Analysis – Notice to End Tenancy**

Under section 47 of the Act, a landlord may terminate the agreement for cause by giving one month notice.

Regardless of whether or not the merit of the One-Month Notice to End Tenancy for Cause was found sufficient to support a termination of the tenancy, the fact is that this tenant had failed to dispute the Notice by making her own application within the statutory 10-day deadline to do so.

If a tenant, who has received a notice under section 47, fails to make an application for dispute resolution to dispute the Notice, the Act states that the tenant:

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the rental unit by that date.

I find that, because the One Month Notice was not disputed by the tenant, I must grant the landlord an Order of Possession based on this Notice.

Given the above, I hereby grant an Order of Possession in favour of the landlord. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, it may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I further find that the tenant's application seeking monetary compensation and an order for the return of their possessions was premature in light of the fact that this tenancy had not yet been officially ended at the time the application was made. I find that the landlord must comply with Residential Tenancy Regulations in regard to their handling of any remaining possessions belonging to the tenant still left on the property after the

tenant vacates. Therefore, I dismiss the tenant's application with leave to reapply should the property and compensation issues remain unresolved.

**Conclusion**

The landlord is successful in the application and is granted an Order of Possession based on the One-Month Notice to End Tenancy for Cause. The tenant's application is dismissed with leave.

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: April 30, 2014

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Residential Tenancy Branch

