



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC

### Introduction

The tenant applied under the *Residential Tenancy Act* (the “Act”) to cancel a 1 Month Notice to End Tenancy for Cause (the “1 Month Notice”), and to recover the cost of the filing fee.

The tenant, the landlord, and legal counsel for the landlord (the “landlord’s counsel”) attended the hearing. At the start of the hearing I introduced myself and the participants. The parties had the dispute resolution process explained to them and were provided with the opportunity to submit documentary evidence prior to this hearing. I have summarized all of the relevant evidence relevant to the matter before me below.

The tenant confirmed that he did not submit documentary evidence as part of his application. The tenant stated that he received the landlord’s documentary evidence prior to the hearing and that he had the opportunity to review the landlord’s documentary evidence prior to the hearing. I find the tenant was served in accordance with the *Act*.

### Issue to be Decided

- Should the 1 Month Notice to End Tenancy for Cause be cancelled?

### Background and Evidence

The parties agreed that a month to month tenancy began on November 1, 2011. Monthly rent in the amount of \$800.00 is due on the first day of each month. The tenant paid a security deposit of \$400.00 at the start of the tenancy. A copy of the written tenancy agreement was submitted in evidence.

The tenant confirmed that he was served on March 22, 2014 with a 1 Month Notice dated March 22, 2014, which alleges three causes. The three causes indicated on the 1 Month Notice are:

1. The tenant is repeatedly late paying rent
2. The tenant has not done required repairs to the unit, site or property
3. Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The tenant disputed the notice on March 28, 2014, which is within 10 days of being served with the 1 Month Notice on March 22, 2014. The effective vacancy date on the 1 Month Notice is listed as April 30, 2014.

Regarding the first cause listed, the tenant testified that he has not paid rent for the months of March 2014, April 2014, and May 2014. In addition, the tenant testified that he did not pay February 2014 rent due February 1, 2014 until February 18, 2014.

The landlord's counsel verbally requested an order of possession during the hearing.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**1 Month Notice to End Tenancy for Cause** – The tenant testified that he failed to pay rent for the months of March, April and May of 2014, and confirmed that he did not pay February 2014 rent until February 18, 2014, although rent is due on the first day of each month. Residential Tenancy Policy Guideline #38 – Repeated Late Payment of Rent, stated that three late payments are the minimum number sufficient to justify a 1 Month Notice. Therefore, based on the above, **I find** the landlord has met the burden of proof by proving that the tenant has repeatedly paid rent late. In the matter before me, the tenant confirmed that he paid February 2014 rent late, and has not paid rent since February 18, 2014 by stating that March, April and May 2014 rent has not been paid.

Given the above, **I dismiss** the tenant's application in full, **without leave to reapply**. **I uphold** the landlord's 1 Month Notice dated March 22, 2014. The landlord's counsel verbally requested an order of possession during the hearing.

As the tenant's application has been dismissed, **I find** it is not necessary to consider the remaining two causes listed on the 1 Month Notice. Section 55 of the *Act* states:

**Order of possession for the landlord**

**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.**

**[emphasis added]**

Given the above and taking into account the oral request for an order of possession during the hearing by the landlord's counsel, **I find** that the landlord is entitled to an order of possession effective **two (2) days after service on the tenant**, as the effective vacancy date listed on the 1 Month Notice, April 30, 2014, has passed. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

As the tenant's application has been dismissed, I do not grant the tenant the recovery of the filing fee.

Conclusion

The tenant's application to cancel the 1 Month Notice has been dismissed and the 1 Month Notice issued by the landlord has been upheld.

The landlord has been granted an order of possession effective two (2) days after service on the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 15, 2014

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Residential Tenancy Branch

