



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BOUNDARY MANAGEMENT INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF; CNC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for cause pursuant to section 55; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

This hearing also dealt with the tenant's application pursuant to the Act for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I waited until 0945 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agent (the agent) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent is the residential manager for the landlord and confirmed she had authority to act on behalf of the landlord in this hearing.

The agent testified that she served the tenant with the dispute resolution package on or about 25 May 2015 in person. The agent testified that the police attended at the rental unit that day to respond to a call from the tenant regarding his downstairs neighbour. The police accompanied the agent when she served the dispute resolution package. On the basis of this evidence, I am satisfied that the tenant was served with the dispute resolution package pursuant to section 89 of the Act.

Issue(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an order of possession? Is the tenant entitled to recover the filing fee for this application from the landlord? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the both the tenant's claim and the landlord's cross claim and my findings around each are set out below.

This tenancy began 1 September 2013. The parties entered into a written tenancy agreement dated 23 August 2013. The agent testified that the tenant vacated the rental unit on 1 June 2015. Monthly rent was \$850.00 and due on the first.

On 6 May 2015, the landlord served the 1 Month Notice to the tenant by posting it to the tenant's door. The 1 Month Notice set out that the tenant or person permitted on the property by the tenant had significantly interfered with or unreasonably disturbed another occupant or the landlord. The 1 Month Notice set out an effective date of 30 June 2015.

The tenant filed for dispute resolution on 15 May 2015. The tenant's Notice of a Dispute Resolution Hearing is dated 27 May 2015. The agent testified that the landlord received the tenant's application for dispute resolution.

The agent testified that on 1 June 2015, the tenant informed the landlord that he would be vacating the rental unit on 30 June 2015. The agent testified that the tenant did vacate the rental unit that day. The agent testified that the tenant did not return the keys to the rental unit. The agent testified that the locks to the rental unit have been changed.

Analysis

The tenant vacated the rental unit 30 June 2015, the effective date of the 1 Month Notice. As such, the tenant's application to cancel the 1 Month Notice and the landlord's application for an order of possession are now moot: no orders of this Branch

are required for either party to enforce their legal rights. As the issues are moot, both of the applications are dismissed without leave to reapply.

The agent stated at the hearing that the landlord hoped to recover the landlord's filing fee. Subsection 72(1) permits an arbitrator to make a discretionary award of repayment of a filing fee from one party to another. Generally this repayment is ordered where a party has been successful in its application. As the tenant vacated the rental unit on or before the effective date of the 1 Month Notice, I decline to award recovery of the filing fee for either party. Each party will bear their own costs of these applications.

### Conclusion

The tenant's and landlord's applications are dismissed without leave to reapply as the issues are moot.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: July 09, 2015

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Residential Tenancy Branch

