



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      For the tenant: CNC, MT, FF  
For the landlord: OPC, OPB, FF

### Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act ("Act").

The tenant applied for an order cancelling a 1 Month Notice to End Tenancy for Cause ("Notice") issued by the landlords, for an order granting more time to make an application to cancel the Notice, and for recovery of the filing fee paid for this application.

The landlords applied for an order of possession for the rental unit pursuant to the Notice and due to an alleged breach of an agreement with the landlords, and for recovery of the filing fee paid for this application.

The listed landlord attended the hearing; the tenants did not attend.

The landlord submitted that on July 16, 2015, he served the tenants with their application for dispute resolution, including the notice of the hearing by leaving the documents with the tenants.

Based upon the landlord's submissions, I find the tenants were served notice of this hearing in a manner complying with section 89(1) of the Act, and the hearing proceeded on the landlord's application in the tenants' absence.

Thereafter the landlord was provided the opportunity to present his evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Procedural matter*-In the absence of the tenants to present their claim, pursuant to section 10.1 of the Rules, I dismiss the tenants' application, without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit and recovery of the filing fee paid for this application?

Background and Evidence

The landlord's evidence shows that this tenancy began on June 1, 2015.

The landlord stated that on June 15, 2015, he served the tenants with the Notice by leaving it with the tenants. The Notice, a copy of which was supplied by both parties in their evidence, listed an effective vacancy date of July 31, 2015.

The Notice explained that the tenants had ten (10) days to file an application for dispute resolution at the Residential Tenancy Branch ("RTB") in dispute of the Notice, or in this case, June 25, 2015. It also explains that if the tenants did not file an application to dispute the Notice within ten days, then the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. In this case, the tenants did file an application, but not within the 10 days allowed, as the application was made by the tenants on June 26, 2015. Additionally, the tenants failed to appear to support their request for additional time to file an application to dispute the Notice.

The landlords' additional relevant documentary evidence included a copy of the written tenancy agreement and a written submission explaining the reasons why they were seeking the tenants' eviction.

Analysis

I accept the landlords' undisputed evidence that the tenants were served a 1 Month Notice to End Tenancy for Cause, as allowed under section 47(1) of the Act, and did not apply to dispute the Notice within ten days of service. The tenants did not attend the hearing to provide serious or compelling reasons why their application was not filed within the 10 days allowed.

I therefore find the tenants are conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and that the landlord is entitled to an order of possession for the rental unit effective two (2) days after service of the order upon the tenants.

I grant the landlords a final, legally binding order of possession for the rental unit pursuant to section 55 of the Act and it is enclosed with the landlords' decision. If the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement.

as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

I also grant the landlords recovery of their filing fee of \$50.00, pursuant to section 72(1) of the Act. As such, I grant the landlords a monetary order for \$50.00, and it is enclosed with the landlords' decision.

Should the tenants fail to pay the landlord this amount without delay after the order has been served upon them, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

Alternatively, the landlords may deduct \$50.00 from the tenants' security deposit in satisfaction of their monetary award. If the landlords choose to deduct their monetary award of \$50.00 from the tenants' security deposit, the monetary order granted to the landlords is null and void, having no force or effect.

### Conclusion

The landlords' application for an order of possession for the rental unit and recovery of their filing fee is granted.

The tenants' application was dismissed without leave to reapply, due to their failure to attend the hearing in support of their application and as I have granted the landlords' application.

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 30, 2015

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Residential Tenancy Branch

