



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows an Order of Possession for Cause pursuant to section 55 and to recover the filing fee for this application from the tenants pursuant to section 72 of the *Act*.

The tenants did not attend this hearing, although I waited until 11:15 am in order to enable the tenants to connect with this teleconference hearing scheduled for 11:00 am. The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, and to make submissions. With respect to service, landlord AC provided sworn testimony that Tenant CB was personally served with the 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") on July 3, 2015. He also testified that a second copy of the 1 Month Notice was provided for the co-tenant, Tenant KB. Landlord AC testified that the tenants were both served with copies of his Application for Dispute Resolution package on July 17, 2015 by registered mail. Landlord AC provided the tracking number for this Canada Post registered mailing. Based on the sworn, undisputed evidence provided by the landlord, I find that the tenant was duly served with the 1 Month Notice on July 3, 2015 and deemed served with the landlord's Application for Dispute Resolution package with evidentiary materials on July 22, 2015 (5 days after its registered mailing).

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for Cause?

Is the landlord entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

The landlords submitted a copy of the residential tenancy agreement for this tenancy. The agreement was signed by all parties and dated August 3, 2015. Landlord AC testified that the one year fixed term tenancy began on April 1, 2015 with a rental amount of \$850.00 payable on the first of each month. The residential tenancy agreement states that the tenants will pay \$425.00 security deposit and a \$425.00 pet damage deposit by April 1, 2015. The landlord testified that the tenant paid the security deposit but has not paid the pet damage deposit. He testified that the tenants have a variety of pets in the rental unit including domesticated dogs, rabbits and rats.

The landlord has applied for an Order of Possession for Cause based on two grounds;

- the tenants or a person permitted on the residential property by the tenants have put the landlord's property at significant risk;
- the tenants have not paid the pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement.

Landlord RC testified that the tenants' adult child placed a large amount of large personal items, furniture and refuse in the yard of the rental unit. She testified that, at one point, the backyard was full of these items. She testified that the landlords have assisted the tenants in getting rid of the items in the yard. She testified that most of it has now been cleared.

The landlords issued a 1 Month Notice to End Tenancy for Cause, testifying that the main ground they sought to end the tenancy on was that the tenant has not paid the pet damage deposit in accordance with the residential tenancy agreement and the *Act*. The landlords both testified that the tenant paid \$110.00 towards the \$425.00 pet damage deposit on September 1, 2015. Landlord AC testified that, as of the date of this hearing, the tenants have not paid the \$315.00 pet damage deposit balance, 6 months after the outset of this tenancy and the date required for payment according to the residential tenancy agreement for this tenancy.

### Analysis

Under section 47 of the *Act*, a landlord may provide a notice to end tenancy based on a variety of grounds, including;

- 47 (1) A landlord may end a tenancy by giving notice to end the tenancy if  
...the tenant does not pay the security deposit or pet damage deposit

within 30 days of the date it is required to be paid under the tenancy agreement...

The landlords have both provided undisputed sworn testimony that the tenants have failed to pay their pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement. The landlords provided evidence of service of documents to the tenants. The tenants did not file to dispute the 1 Month Notice issued by the landlord nor attend this hearing in dispute of the request for an order of possession.

The landlord provided a 1 Month Notice on July 3, 2015 requiring the tenants to vacate the rental unit on August 3, 2015. The *Act* provides a clear timeline for a 1 Month Notice;

47 (2) A notice under this section must end the tenancy effective on a date that is

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 53 of the *Act* allows me to correct a notice where the writer has provided an incorrect effective date that complies with the Notice to End Tenancy. As this tenancy required rent payable on the 1<sup>st</sup> of each month, and in accordance with section 47(2) of the *Act*, the corrected effective date of the 1 Month Notice is August 31, 2015.

Based on the landlord's undisputed evidence, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the corrected effective date of the notice. In this case, this required the tenant to vacate the premises by August 31, 2015. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession.

As the landlord was successful in this application, the landlord is entitled to recover the filing fee for this application. The landlord may deduct \$50.00 to recover this filing fee from the tenant's security deposit.

Conclusion

I grant an Order of Possession to the landlord effective 2 days after service of this Order on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order that the landlord retain \$50.00 of the tenant's security deposit towards the recovery of the filing fee for this application, reducing the tenant's security deposit from \$425.00 to \$375.00.

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: September 22, 2015

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Residential Tenancy Branch

