



# 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 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 the filing fee for this application from the tenant pursuant to section 72.

The tenant and landlord attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord confirmed he was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

The tenant confirmed receipt of the landlord's application for dispute resolution. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application.

### Preliminary - Service of 1 Month Notice to End Tenancy for Cause ("1 Month Notice")

The landlord testified that on May 26, 2016 the 1 Month Notice was served to the tenant by way of posting to the rental unit door where the tenant resides. The landlord provided a proof of service signed by a witness.

The tenant disputed receiving the 1 Month Notice on her rental unit door. Rather she contended that towards the end of June 2016, she received a note on her door that advised her to vacate the rental unit by June 30, 2016 or an order of possession would be issued.

In regards to the note posted on the rental unit door towards the end of June, the landlord explained this was an informal note that served to remind the tenant to vacate or an order would be pursued.

Based on the signed proof of service provided by the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant was served with the landlord's 1 Month Notice on May 29, 2016, three days after its posting.

#### 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 tenant?

#### Background and Evidence

The parties testified that this tenancy began on September 1, 2013 on a fixed term until August 31, 2013 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$750.00 is payable on the first of each month. The tenant remitted \$365.00 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

The landlord issued a 1 Month Notice on March 26, 2016, deemed served on May 29, 2016. The reasons cited in the 1 Month Notice were that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord. The 1 Month Notice indicates a move-out date of June 30, 2016.

The tenant attended the hearing and disputed the landlord's reasons to end the tenancy.

The landlord is seeking to recover the \$100.00 filing fee for this application from the tenant.

#### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does not file an application, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must move out of the rental unit.

Based on the landlord's testimony and the notice before me, I find that the tenant was served with an effective notice. Although the tenant attended the hearing and verbally disputed the 1 Month Notice, the tenant did not file an application to dispute the notice. Accordingly the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice, and must move out of the unit. Therefore, I find that the landlord is entitled to an order of possession.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the application,

### Conclusion

The landlord's application for an order of possession is granted.

I issue a monetary order in the landlord's favour in the amount of \$100.00 against the tenant.

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: July 22, 2016

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Residential Tenancy Branch