



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC FF

### Introduction

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

- an Order of Possession for Cause, pursuant to section 47 of the *Act*, and
- recovery of the filing fee from the tenant pursuant to section 72 of the *Act*.

While the landlord, represented by agent, J.H. (the "landlord") attended the hearing by way of conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave undisputed affirmed testimony that a 1 Month Notice for Cause was posted on the tenant's door on March 13, 2017. Pursuant to sections 88 & 90 of the *Act* the tenant is found to have been served on March 16, 2017, three days after its posting.

On June 22, 2017 the landlord sent the tenant an application for dispute resolution and evidentiary package by way of Registered Mail. A copy of the Canada Post tracking number was provided to the hearing. Pursuant to sections 88, 89 & 90 of the *Act*, the tenant is deemed to have been served with these documents June 27, 2017, five days after their service.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Can the landlord recover the filing fee?

### Background and Evidence

The landlord gave evidence that the tenancy in question began on August 1, 2008. Market rate for the unit is \$880.00 per month; however, the tenant receives a rental subsidy and pays \$375.00 per month. A security deposit of \$238.62 collected at the outset of the tenancy continues to be held by the landlord.

The landlord explained that the tenant was served a 1 Month Notice to End Tenancy for Cause because of on-going concerns that the landlord and other residents have raised concerning the tenant's behaviour. The reasons cited on the landlord's 1 Month Notice are:

- 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 seriously jeopardized the health and safety or lawful right of another occupant or the landlord.
- The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, April 30, 2017.

I am therefore issuing an Order of Possession to the landlords effective 2 days after service on the tenant.

As the landlord was successful in her application she may recover the \$100.00 filing fee from the tenant. Using the offsetting provision contained in section 72 of the *Act*, the landlord may retain \$100.00 from the tenant's security deposit.

### Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial Court of British Columbia.

I order the landlord to retain \$100.00 from the tenant's security deposit in satisfaction for a return of the filing fee.

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 24, 2017

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Residential Tenancy Branch