



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes:** OPC CNC OLC RP PSF FF

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants requested:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47; and
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to the landlord to provide services or facilities required by law pursuant to section 58.

Both parties confirmed receipt of each other's applications for dispute resolution hearing package (“Applications”) and evidence. In accordance with sections 88 and 89 of the *Act*, I find that both the landlord and tenants were duly served with the Applications and evidence.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenants confirmed receipt of the 1 Month Notice June 11, 2017, I find that this document was duly served to the tenants in accordance with section 88 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 for Cause?

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

Are the tenants entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

Are the tenants entitled to an order to the landlord to provide services or facilities required by law?

Are the tenants entitled to an order requiring the landlord to make repairs to the rental unit?

**Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began in May of 2013. Monthly rent is currently set at \$1,100.00. The tenants testified that a security deposit in the amount of \$500.00 was paid in April of 2013, which the landlord disputes. The tenants still reside in the upstairs portion of the house.

The landlord submitted the 1 Month Notice to End Tenancy on the following grounds:

1. Tenant is repeatedly late paying rent.
2. Tenant has allowed an unreasonable number of occupants in the unit/site.
3. The tenant or a person permitted on the property by the tenant has:
  - i) significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - ii) seriously jeopardized the health or safety or lawful right of another occupant or the landlord
4. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has or is likely to:
  - i) adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant.

The landlord testified that the tenants did not pay rent for the month of August 2017, and was repeatedly late in paying rent. The landlord provided copies of receipts in his evidence to

support that only partial payments were made at a time towards the rent payments, and not on the first of the month.. The landlord submitted 12 receipts dating back to January 1, 2016 which show that partial rent was paid on various dates such as January 25, 2016, March 4, 2017, May 28, 2017, and June 13, 2017.

The tenants did not dispute that rent was not paid for August 2017 stating that the landlord refused the rent payment. The tenants also do not dispute that rent was often paid on various dates throughout the month, and not on the first of the month, as there was no written tenancy agreement, and the landlord never objected to payments being made when the tenants were able to do so.

The landlord also testified that the tenants repeatedly disturbed the other tenant downstairs, as well as the tenants on the property next door. The landlord's other tenant testified as a witness in this hearing, stating that the tenants would turn off her electricity on a regular basis and would harass her. The tenants replied that they had never intentionally cut off her electricity, stating that the electricity would shut off when overloaded.

### **Analysis**

Section 47 of the *Residential Tenancy Act* allows the landlord to end a tenancy for cause. The landlord provided undisputed oral testimony and written evidence to support that the tenants have been late in paying their rent on at least three occasions. The tenants testified that no written tenancy agreement exists, and that the landlord had allowed the tenants a flexible payment schedule and the tenants made payment when they were able to.

Although no written tenancy agreement exists, the term tenancy is defined in the *Act* as “an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a licence to occupy a rental unit”. It is undisputed that the tenants did not pay rent for August 2017. The tenants did not provide any witness testimony or statements, or supporting evidence to demonstrate that the landlord refused payment.

In the landlord's supporting evidence, the April 1, 2017 receipt was for a \$1,000.00 payment, \$600.00 of which was for February 2017 rent, and \$750.00 for March 2017 rent. I find that the landlord provided sufficient supporting evidence to demonstrate that the tenants were repeatedly late in making rent payments, and in installments less than the full monthly rent required. The repeated late rent payments meet the criteria for sufficient cause to end this tenancy under section 47(1)(b) of the *Act*. The tenants' entire application is therefore dismissed.

I find that the landlord's 1 Month Notice is valid and effective as of August 1, 2017, and I am granting the landlord's application to end this tenancy for cause.

I find that the landlord is entitled to recovery of the filing fee from the tenants.

**Conclusion**

I dismiss the tenants' entire application. I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenants. Should the tenants and any occupant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia

I issue a \$100.00 Monetary Order in favour of the landlord which allows the landlord to recover the filing fee.

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 18, 2017

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Residential Tenancy Branch