



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RED DOOR HOUSING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNQ

### Introduction

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

- cancellation of the landlord's 2 Month Notice to End Tenancy Because the Tenant Does not Qualify for Subsidized Rental Unit pursuant to section 49.1;

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent DK (the "landlord").

As both parties were in attendance I confirmed that there were no issues with service of the landlord's 2 Month Notice, the tenant's application for dispute resolution or either party's evidentiary materials. The parties confirmed receipt of one another's materials. In accordance with sections 88 and 89 of the *Act*, I find that the parties were duly served with copies of the landlord's 2 Month Notice, the tenant's application and their respective evidence.

### Issue(s) to be Decided

Should the landlord's 2 Month Notice be set aside? If not is the landlord entitled to an Order of Possession?

### Background and Evidence

The parties agreed on the following facts. This tenancy began in 2012. The rental unit is a subsidized rental unit operated by the landlord. Tenants must prove annually that they meet the income and household occupant criteria to qualify for the housing unit.

The landlord testified that the annual review commences early in the calendar year and must be completed by May 31<sup>st</sup> each year. The landlord said that the tenant failed to provide the necessary documents by that date and the documents that have been provided are incomplete. The landlord said that based on the income documents provided by the tenant the landlord is unable to determine that the tenant qualifies for the rental unit. The landlord submitted into written evidence copies of letters sent to the tenant requesting documents to prove eligibility for the rental unit.

The tenant confirmed that she was late in submitting her documents to the landlord and did not provide them until June, 2017, after the deadline. The tenant said that she is unaware of what additional information the landlord requires to determine if she qualifies for the subsidized rental unit.

### Analysis

Where a tenant applies to dispute a 2 Month Notice pursuant to section 49.1, the onus is on the landlord to prove, on a balance of probabilities, the grounds on which the 2 Month Notice is based. In the present case the landlord must show on a balance of probabilities that the tenant has ceased to qualify for the rental unit as they no longer meet the eligibility criteria.

I accept the undisputed evidence of the parties that the rental unit is a subsidized unit. I accept the evidence of the parties that the tenant did not submit her income documents to show that she continues to qualify for the rental unit by the date requested by the landlord. I further accept the landlord's undisputed testimony that based on the documents submitted by the tenant the landlord is unable to determine that the tenant qualifies for the subsidized rental unit.

Accordingly, I find that the landlord has shown on a balance that the tenant no longer qualifies for the rental unit and dismiss the tenant's application.

Section 55(1) of the *Act* reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(a) the landlord makes an oral request for an order of possession, and*

*(b) the director dismisses the tenant's application or upholds the landlord's notice.*

The landlord's 2 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit and the effective date of the notice.

As I have dismissed the tenant's application to dispute the 2 Month Notice, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. The landlord requested at the hearing an Order of Possession effective at the end of this month, October 31, 2017 and I issue it accordingly.

#### Conclusion

I grant an Order of Possession to the landlord effective **12:00pm OCTOBER 31, 2017**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The tenant's application is dismissed without leave to reapply.

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: October 3, 2017

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Residential Tenancy Branch