



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING CHARITABLE ASSOCIATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes          CNR CNE CNC

### Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The tenant requested:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause (1 Month Notice) pursuant to section 47 of the *Act*;
- cancellation of the landlord’s 10 Day Notice to End Tenancy for Unpaid rent (10 Day Notice) pursuant to section 46 of the *Act*; and
- cancellation of the landlord’s 2 Month Notice to End Tenancy pursuant to section 49 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present their testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord was represented at the hearing by property manager, S.T. (the “landlord”).

The tenant confirmed receipt of all notices to end tenancy at issue in the hearing. Pursuant to sections 88 & 89 of the *Act*, I find that the tenant was duly served with the landlord’s application for dispute resolution and evidentiary package.

The landlord confirmed receipt of the tenant’s Application for Dispute Resolution package (“Tenant’s Application”). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the Tenant’s Application.

### Issue(s) to be Decided

Can the tenant cancel the landlord’s Notices to End Tenancy? If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

Both parties explained that this tenancy began on August 1, 2015. Rent was \$1,500.00 per month, and rose to its current rate of \$1,700.00. A security deposit of \$450.00 collected at the outset of the tenancy continues to be held by the landlord.

The landlord explained that this is a subsidized housing unit, where the tenant must pay \$590.00 per month. The landlord said that a 10 Day Notice was issued to the tenant because the tenant moved out of the rental unit in September 2017 and her mother moved in. This change in circumstance led to the rental unit no longer qualifying for subsidized rent, and the market rent of \$1,700.00 being due.

The tenant acknowledged that she was no longer in occupation of the rental unit, and stated that due to difficult family circumstances, she had moved her mother into the rental unit, and the tenant herself, was now occupying her mother's rental unit. The tenant argued that while she had been warned by the landlord's that this change in occupants was unauthorized; she had always ensured that the subsidized rent of \$590.00 per month was paid.

In addition to a 10 Day Notice to End Tenancy for Unpaid Rent, the landlord has applied for a 1 Month Notice to End Tenancy for Cause. The Cause listed on the 1 Month Notice includes; Breach of a Material term of the tenancy agreement, Tenant assigning or subletting the rental unit without the landlord's written consent, and tenant permitting a person to be on the property who has seriously jeopardized the health or safety of another occupant and put the landlord's property at significant risk.

The landlord said that in addition to her mother, the tenant had allowed numerous other, unauthorized persons to occupy the rental unit. The tenant acknowledged this to be the case, but again argued that a series of personal/family issues had led to her mother taking over the rental unit. The landlord argued that the tenant's mother had distributed keys to persons who were unknown to the landlord, and allowed unknown persons to access the building and the parking garage.

### Analysis

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. While the tenant has made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice, I do not find that the tenant was able to explain why rent of \$1,700.00 should not be due, when she no longer occupies the rental unit. I find the 10 Day Notice to be valid, and in accordance with section 46(5) of the *Act* I find that the tenant's failure to pay rent in its entirety has led to the end of her tenancy on the effective date of the notice. The tenant stated during the hearing that she understood that her actions were unauthorized by the landlord, but argued that rent of \$590.00 was paid on time. I find that the tenant no longer qualifies for the subsidized rental rate, because she acknowledged no longer living in the rental

unit. I find that rent was \$1,700.00 per month, and that \$1,100.00 in rent for November 2017 remains unpaid.

The tenant was to vacate the premises by December 17, 2017, the corrected effective day of the 10 Day Notice. I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant.

As the tenant was unsuccessful in cancelling the landlord's 10 Day Notice, the landlord's other notices to end tenancy will not be considered.

### Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

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: January 22, 2018

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Residential Tenancy Branch