



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Tenants under the *Residential Tenancy Act* (the “Act”), seeking more time to make an application to cancel a notice to end tenancy and cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

The hearing was convened by telephone conference call and was attended by the Landlord who attended at the appointed time, ready to proceed. The Tenants did not attend. The Landlord provided affirmed testimony and was given the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter pursuant to the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); However, I refer only to the relevant facts and issues in this decision. At the request of the Landlord, copies of the decision and any orders issued in their favor will be e-mailed to them at the e-mail address provided in the hearing.

### Issue(s) to be Decided

Are the Tenants entitled to an order cancelling the One Month Notice under the *Act*?

If the Tenants are unsuccessful in seeking to cancel the One Month Notice, is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Act*?

### Background and Evidence

The One Month Notice in the documentary evidence before me, dated November 19, 2017, has an effective vacancy date of December 19, 2017, and indicates the following reason for ending the tenancy:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

The Landlord testified that the One Month Notice was personally served on the Tenants in the presence of two witnesses on November 19, 2017. The Landlord also testified that although some rent has been paid for use and occupancy of the rental unit for February, 2018, the Tenants were short \$50.00 and therefore rent has not been paid in full for the current month.

The Tenants applied to cancel the One Month Notice; however, they did not appear at the hearing of their own Application to provide any evidence or testimony.

### Analysis

I have reviewed all relevant documentary evidence and oral testimony and in accordance with section 88 of the *Act*, I find that the Tenants were served with the One Month Notice on November 19, 2017, the date it was personally served on them.

As the Tenants failed to attend the hearing to present any evidence or testimony in support of their Application, their Application is dismissed without leave to reapply. I note that section 55 of the *Act* requires that when a tenant submits an application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an Order of Possession if the application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

As the One Month Notice is signed and dated by the Landlord, gives the address for the rental unit, states the effective date of the notice and the grounds for ending the tenancy, and is in the approved form, I find that it complies with section 52 of the *Act*. Although the effective date of the One Month Notice does not comply with the notice period required under section 47 of the *Act*, I find that the incorrect effective date of December 19, 2017, is automatically corrected to the correct effective date of December 31, 2017, pursuant to section 53 of the *Act*.

Based on the above, the Landlord is therefore entitled to an Order of Possession pursuant to section 55 of the *Act*. As the corrected effective date of the One Month Notice, December 31, 2018, has passed and the Landlord testified that the Tenants have failed to pay rent in full for the current month, the Order of Possession will be effective upon two days of service.

### Conclusion

The Tenants' Application seeking more time to make an application to cancel a notice to end tenancy and cancellation of a One Month Notice is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. The Landlord is provided with this Order in the above terms and 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 Supreme Court of British Columbia 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: February 6, 2018

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Residential Tenancy Branch