



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PADDINGTON HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPN, FF

### Introduction

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

- an order of possession based on the tenants' notice to end tenancy, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The two tenants did not attend this hearing, which lasted approximately 18 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the building manager for the landlord company named in this application and that she had authority to speak on its behalf as an agent at this hearing.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on February 2, 2018, by way of registered mail. The landlord provided a Canada Post receipt and tracking number with this application. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlord's application on February 7, 2018, five days after its registered mailing.

### Issues to be Decided

Is the landlord entitled to an Order of Possession based on the tenants' notice to end tenancy?

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

### Background and Evidence

The landlord testified regarding the following facts. This tenancy began on September 1, 2014 for a fixed term ending on August 31, 2015, after which it became a month-to-month tenancy. Monthly rent in the current amount of \$1,803.00 is payable on the first day of each month. A security deposit of \$825.00 was paid by the tenants and the landlord continues to retain the deposit. A written tenancy agreement was signed by the former landlord property management company and the tenants and a copy was provided for this hearing. The current landlord took over property management duties from the former company, in October 2017. The owner of the rental unit has remained the same throughout the tenancy. The tenants continue to reside in the rental unit.

The landlord seeks an order of possession based on the tenants' written notice to end tenancy. The landlord said that the tenants provided a written "tenants notice to end tenancy," dated October 30, 2017, on the landlord's form, indicating that they would be ending their tenancy and vacating the rental unit by January 31, 2018. It is signed and dated by both tenants and includes the rental unit address. At the bottom of the form, it indicates "for office use only" where the landlord indicated the date the notice was received as October 31, 2017 as well as the rental building name and the manager's signature. A copy of the notice was provided for this hearing.

The landlord also seeks to recover the \$100.00 filing fee paid for this application.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. Section 45(1) of the *Act* states that tenants may end a tenancy by providing at least one month's written notice to the landlord on the day before rent is due, in compliance with section 52 of the *Act*. The tenants provided written notice, which was received by the landlord on October 31, 2017, before rent is due on November 1, 2017, to end the tenancy by January 31, 2018, which is more than one month's notice. The tenants' notice is dated, signed by both tenants, gives the address of the rental unit and provides the effective date of the notice, all in compliance with section 52 of the *Act*.

Therefore, I find that the tenants provided a notice to end their tenancy by January 31, 2018, and failed to vacate the rental unit. Residential Tenancy Policy Guideline 11 states that the tenants cannot unilaterally withdraw a notice to end tenancy, unless

consent of the landlord was given, which was not the case here. Further, I find that no issue of waiver of the notice arises since the landlord provided “use and occupancy only” receipts for rent paid in February and March 2018, after the effective date of the notice. The landlord provided a copy of these rent receipts and the Canada Post receipts for the registered mailings of the rent receipts. The landlord also indicated that rent for April 2018 was not paid by the tenants. Accordingly, I find that the landlord is entitled to a two (2) day Order of Possession, pursuant to section 55 of the *Act*.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 filing fee from the tenants.

### Conclusion

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenants**. Should the tenants or anyone 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.

I order the landlord to retain \$100.00 from the tenants’ security deposit of \$825.00 in full satisfaction of the monetary award for the filing fee. I order the landlord to deal with the remainder of the tenants’ security deposit of \$725.00 at the end of this tenancy in accordance with section 38 of the *Act*.

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: April 03, 2018

---

Residential Tenancy Branch