



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC MNR FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on May 17, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order of possession based on a One Month Notice to End Tenancy for Cause
- a monetary order for unpaid rent or utilities

The Landlord provided affirmed testimony at the hearing. The Tenants did not attend the hearing.

The Landlord testified that he served the Tenants, in person, with the Notice of Hearing along with supporting documentary evidence on March 9, 2018. The Landlord testified that service of this document was witnessed by a third party. I find the Tenants received the package on this day.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Landlord applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in this application deals with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, all of the grounds on the Landlord's application with the exception of the following ground:

- an order of possession based on a One Month Notice to End Tenancy for Cause.

#### Issue to be Decided

- Is the Landlord entitled to an order of possession under the *Act*?

#### Background and Evidence

The Landlord testified that he served the Tenants with a One Month Notice to End Tenancy for Cause (the Notice) on January 8, 2018, via personal service. Service of this document was witnessed by a third party, as per the Proof of Service document.

The Notice indicates the reasons for ending the tenancy are:

- Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk.
- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The Landlord stated that the Tenants have now stopped paying rent, and the relationship is degrading.

#### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end

tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, the Landlord issued the Notice on the bases indicated above. Based on the Landlord's testimony and the Proof of Service document submitted with the Landlord's documentary evidence, I am satisfied that the Landlord served the Tenants with the Notice, in person, on January 8, 2018. The Landlord issued this Notice for cause, under section 47(1) of the *Act*. I find the Tenants received the Notice on January 8, 2018, the same date they were personally served this document.

The Tenants had 10 days, until January 18, 2018, to dispute the Notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenants are conclusively presumed to have accepted the end of the tenancy.

The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenants.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of \$100.00. I authorize the Landlord to retain \$100.00 from the Tenants' security deposit in full satisfaction of the recovery of the cost of the filing fee.

### Conclusion

The Landlords are granted an order of possession effective **two days after service** on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlords may file the order with the Supreme Court of British Columbia and be 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: May 17, 2018

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Residential Tenancy Branch