



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1072048 BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

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

- an Order of Possession for cause, pursuant to section 55; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 11 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 he was the property manager for the landlord company named in this application and that he had authority to speak on its behalf at this hearing.

The landlord confirmed that the tenant was personally served with the landlord's application for dispute resolution hearing package on May 4, 2018. The landlord provided a letter that was signed by the tenant, indicating that he received the hearing documents on the above date. In accordance with section 89 of the *Act*, I find that the tenant was served with the landlord's application on May 4, 2018.

The landlord confirmed that the tenant was personally served with the landlord's 1 Month Notice to End Tenancy for Cause, dated April 11, 2018 ("1 Month Notice") on the same date. The landlord provided a signed proof of service form with the tenant's signature, indicating that the tenant personally received the notice on the above date. In accordance with section 88 of the *Act*, I find that the tenant was served with the landlord's 1 Month Notice on April 11, 2018.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

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 February 19, 2018. Monthly rent in the current amount of \$1,700.00 is payable on the first day of each month. No security deposit was paid or required by the landlord. Both parties signed a written tenancy agreement. The tenant continues to reside in the rental unit. The rental unit is a two-level house, with two bedrooms on the upper level and one bedroom on the basement level, and two bathrooms total, of which only one is working.

The landlord's 1 Month Notice indicates an effective move-out date of May 31, 2018. The landlord issued the notice for the following reason:

- *Tenant has allowed an unreasonable number of occupants in the unit/site.*

The landlord seeks an order of possession based on the 1 Month Notice and to recover the \$100.00 filing fee paid for this application. The landlord testified that the 1 Month Notice was issued because the tenant has been operating a rooming house at the rental unit. He said that at least seven people were living in the three bedroom rental unit, based on his own inspection, and that are locks on each bedroom door. He stated that the police raided the rental unit believing it to be a drug operation and broke the doors and windows down but no arrests were made.

The landlord explained that he received a bylaw violation letter, dated April 4, 2018, indicating that upon inspection, the tenant was operating a rooming house and that it was in violation of the single family residential zoning for the property. The letter provides April 30, 2018 as the date to stop the illegal use, a follow up inspection would be done, and further action could be taken against the landlord. The landlord indicated that he provided a copy of the letter to the tenant and when the tenant denied the allegations, he issued the 1 Month Notice on April 11, 2018.

### Analysis

I am satisfied that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant allowed an unreasonable number of occupants in the rental unit.

I accept the landlord's undisputed evidence that the tenant was operating a rooming house at the rental unit. The rental unit was raided by the police, a bylaw violation letter was issued to the landlord and then passed on to the tenant, and the landlord personally inspected the unit observing at least seven people in a three bedroom house.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on May 31, 2018, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by May 31, 2018. As this has not occurred, I find that the landlord is entitled to an **order of possession effective at 1:00 p.m. on June 30, 2018**, pursuant to section 55 of the *Act*. The landlord specifically asked for the above effective date at the hearing, indicating that the tenant had paid rent for June 2018. I find that the landlord's 1 Month Notice complies with section 52 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 tenant.

#### Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on June 30, 2018**. Should the tenant 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 issue a monetary order in the landlord's favour in the amount of \$100.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: June 25, 2018

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Residential Tenancy Branch