



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC LRE OLC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on April 24, 2018 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a notice to end tenancy for cause;
- an order suspending or setting conditions on the Landlord's right to enter the property; and
- an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement.

The Tenant attended the hearing at the appointed date and time. The Landlord attended the hearing at the appointed date and time, and was accompanied by S.J., who also identified herself as a landlord. All in attendance provided affirmed testimony.

The Tenant testified the Application package was served on the Landlord by registered mail. The Landlord confirmed receipt. The Landlord testified that a documentary evidence package was served on the Tenant in person. The Tenant acknowledged receipt. Although S.J. advised she was not served with the Application package, no further issues were raised with respect to service or receipt of the above documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an 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.

### Issue to be Decided

1. Is the Tenant entitled to an order cancelling the notice to end tenancy for cause?

2. Is the Tenant entitled to an order suspending or setting conditions on the Landlord's right to enter the property?
3. Is the Tenant entitled to an order that the Landlord comply with the Act, regulations, and/or the tenancy agreement?

### Background and Evidence

The parties testified to the terms of the tenancy agreement. They confirmed the tenancy began on July 1, 2017. Rent in the amount of \$1,200.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$600.00 and a pet damage deposit of \$200.00, which the Landlord holds.

The Landlord testified the Tenant has been repeatedly late paying rent. Accordingly, the Landlord issued a One Month Notice to End Tenancy for Cause, dated April 18, 2018 (the "One Month Notice"), on that basis. The Tenant's Application confirmed receipt of the One Month Notice on April 19, 2018.

In support, S.J. testified the Tenant paid rent as follows:

<b>Payment date:</b>	<b>Payment amount</b>
Jul. 2, 2017	\$1,200.00
Aug. 1, 2017	\$1,000.00
Aug. 8, 2017	\$200.00
Sep. 6, 2017	\$800.00
Sep. 8, 2017	\$400.00
Oct. 6, 2017	\$176.25
Nov. 6, 2017	\$400.00
Nov. 7, 2017	\$700.00
Nov. 11, 2017	\$100.00
Dec. 1, 2017	\$811.50
Jan. 10, 2018	\$700.00
Jan. 12, 2018	\$500.00
Feb. 9, 2018	\$1,200.00
Mar. 1, 2018	\$600.00
Mar. 2, 2018	\$600.00
Apr. 1, 2018	\$1,200.00
May 1, 2018	\$1,200.00
Jun. 1, 2018	\$1,200.00

The Landlord testified the reduced payments in October 2017 and December 2018 were due to a hot water tank replacement and a furnace repair, paid for by the Tenant.

In reply, the Tenant confirmed the accuracy of the oral testimony of S.J. and acknowledged she “screwed up”.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a Landlord to take steps to end a tenancy for cause in the circumstances described therein. In this case, the Landlord wishes to end the tenancy on the basis that the Tenant has been repeatedly late paying rent.

Residential Tenancy Branch Policy Guideline #38 provides clarification with respect to ending a tenancy on the basis of repeated late payments of rent. It states:

*Three late payments are the minimum number sufficient to justify a notice under these provisions.*

*It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments...*

...

*Whether the landlord was inconvenienced or suffered damage as a result of any of the late payments is not a relevant factor in the operation of this provision.*

[Reproduced as written.]

In this case, I find that the Tenant has been late paying rent on no less than seven occasions since the tenancy began on July 1, 2018, as summarized under *Background and Evidence*, above. Accordingly, I find the Application to cancel the One Month Notice is dismissed and the One Month Notice is upheld.

When a tenant’s application to cancel a notice to end tenancy is dismissed, and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I issue an

order of possession in favour of the Landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective two (2) days after service on the Tenant.

As the tenancy is ending on the basis that the Tenant has been repeatedly late paying rent, the remainder of the Application is moot. Accordingly, it has not been necessary for me to consider the Tenant's requests for orders concerning the Landlord's access to the rental unit, or that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement.

#### Conclusion

The Tenant's Application is dismissed, without leave to reapply.

Pursuant to s. 55(1) of the *Act*, the Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of 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: June 20, 2018

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Residential Tenancy Branch