



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenant's application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

As the tenant confirmed that he was handed the 1 Month Notice on May 31, 2018, I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. As the landlord's agents at this hearing (the agents) confirmed that the landlord received a copy of the tenant's dispute resolution hearing package sent by the tenant on or about June 11, 2018 or June 13, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since the tenant confirmed that they had received and reviewed copies of the landlord's written evidence, I find that the landlord's written evidence was served in accordance with section 88 of the *Act*. Other than a copy of the landlord's 1 Month Notice, the tenant provided no written evidence for this hearing.

### Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

The tenant gave undisputed sworn testimony that this tenancy for a rental unit in a strata building began in August 2016. At the expiration of the initial one-year fixed term tenancy, the tenancy has continued on a month-to-month basis. The current monthly

rent is set at \$2,800.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$1,350.00 security deposit paid when this tenancy began.

The landlord issued the 1 Month Notice seeking an end to this tenancy by June 30, 2018, after receiving a letter from the strata council advising that the tenant had listed the availability of this rental unit for short term rentals on a popular website and was receiving guests in this rental unit as a commercial enterprise. The strata council has imposed a number of fines against the landlord for contraventions of the strata's bylaws regarding short term rentals and subletting the rental unit to others.

The landlord's 1 Month Notice identified the following reasons for seeking an end to this tenancy:

*Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

*Tenant has assigned or sublet the rental unit/site without landlord's written consent.*

The parties agreed that the agents for the landlord have accepted the tenant's payment of \$2,800.00 for the month of July 2018 for "use and occupancy only" and not to reinstate this tenancy beyond the June 30, 2018 effective date noted on the 1 Month Notice.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on August 31, 2018, by which time the tenant will have surrendered vacant possession of the rental unit to the landlord in a clean and undamaged condition.
2. The landlord's agents agreed to accept a cheque in the amount of \$2,800.00 from the tenant for use and occupancy only, to enable the tenant to remain in the rental unit until August 31, 2018.

3. The tenant agreed to pay the landlord any and all fines issued by the strata and the municipality against the landlord during the course of this tenancy.
4. The tenant agreed to allow access to the rental unit upon the landlord or his agents providing 24 hours email notice to the tenant for the purposes of conducting showings to secure new tenants for this rental unit.
5. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenant's application and all issues currently in dispute arising out of this tenancy at this time and that they did so of their own free will and without any element of force or coercion having been applied.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenant does not vacate the rental premises by 1:00 p.m. on August 31, 2018, in accordance with their agreement. The landlord is provided with these Orders in the above terms and the tenant must be served with an Order in the event that the tenant does not vacate the premises by the time and date set out in their agreement. Should the tenant fail to comply with this Order, this Order may be filed 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: July 19, 2018

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Residential Tenancy Branch