



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, CNC, FFT

### Introduction

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

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47;
- an Order for emergency repairs, pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open for 11 minutes in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The building manager (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Rule 7 of the Rules of Procedure provides as follows:

#### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. Rule 7.3 states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with the *Act*.

#### Issue(s) to be Decided

1. Are the tenants entitled to cancellation of the One Month Notice to End Tenancy for Cause (the “One Month Notice”), pursuant to section 47 of the *Act*?
2. Are the tenants entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the *Act*?
3. If the tenants’ application is dismissed or the One Month Notice is upheld, is the landlord entitled to an Order of Possession, pursuant to section 55 of the *Act*?

#### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord’s claims and my findings are set out below.

The landlord provided undisputed testimony that this tenancy began in July 2015 and is currently ongoing. Monthly rent in the amount of \$1,275.00 is payable on the first day of each month. A security deposit of \$637.505.00 was paid by the tenants to the landlord. A written tenancy agreement was signed by both parties but a copy was not submitted for this application.

The landlord testified that he personally served the tenants with the One Month Notice on June 7, 2018. While the One Month Notice states that the One Month Notice was served by posting on the tenants’ door, the landlord testified that the wrong box was checked on the One Month Notice.

The One Month Notice is in writing and:

- is signed and dated by the landlord giving the notice;
- gives the address of the rental unit;
- states the effective date of the notice;
- states the grounds for ending the tenancy; and
- is on Residential Tenancy Form #33.

### Analysis

Based on the undisputed testimony of the landlord, I find that the One Month Notice was personally served on the tenants on June 7, 2018, in accordance with section 88 of the *Act*.

Rule 7 of the Rules of Procedure provides as follows:

#### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator. Rule 7.3 states that if a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Based on the above, **in the absence of any evidence or submissions from the applicant I order the application dismissed without liberty to reapply.**

Section 55 of the *Act* states that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if:

- (a) the landlord's notice to end tenancy complies with section 52; and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

Section 52 of the *Act* states that in order to be effective, a notice to end a tenancy must be in writing and must:

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
  - (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

Upon review of the One Month Notice, I find that the landlord's One Month Notice complies with section 52 of the *Act*. Pursuant to section 55, of the *Act*, I find that the landlord is entitled to an Order of Possession as the landlord's notice complies with section 52 and the tenants' application has been dismissed.

### Conclusion

The tenants' application is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenants**. Should the tenants 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: August 07, 2018

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Residential Tenancy Branch