



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KEKINOW NATIVE HOUSING  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC OLC

### Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (One Month Notice) pursuant to section 47 of the *Act*;
- an Order for the landlord to comply with the *Act*, regulations and/or tenancy agreement pursuant to section 62 of the *Act*.

The landlord's agent D.A. (herein referred to as "the landlord") attended at the date and time set for the hearing of this matter, on behalf of the landlord, who was the respondent in this matter. The tenant, who was the applicant in this matter, did not attend this hearing, although I left the teleconference hearing connection open until 11:22 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Rule 7.3 of the Rules of Procedure provides as follows:

**7.3 Consequences of not attending the hearing** – 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 reapply.

Therefore, in the absence of the tenant's attendance at this hearing, I order the tenant's application in its entirety dismissed without liberty to reapply.

### Preliminary Issue - Procedural Matters

Section 55 of the *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 tenant's Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession on the basis of the Notice to End Tenancy?

### Background and Evidence

The landlord provided unchallenged affirmed testimony that on July 31, 2018, the landlord personally served the tenant with the One Month Notice. The landlord called witness A.M. who testified that he witnessed the landlord personally hand the notice to the tenant on July 31, 2018 at the door of the tenant's rental unit.

The One Month Notice, submitted into evidence by the tenant, states an effective move-out date of August 30, 2018, with the following boxes checked off as the reasons for seeking an end to this tenancy:

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord.*

*Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:*

- *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.*

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

In the "Details of Cause" section of the notice, the landlord has included the following additional information (Note: names provided have been redacted for confidentiality):

July 28, 2018 Police incident involving [*Tenant*] and her boyfriend [*Name redacted*]  
June 30, 2018 Police incident involving [*Tenant*] and her boyfriend [*Name redacted*]  
June 15, 2018 Final warning letter unauthorized tenant

The landlord also attached to the notice an “Addendum to One Month Notice to End Tenancy for Cause” in which further details regarding the cause are provided as follows:

April 26, 2018 – letter re unauthorized tenant  
April 26, 2018 – final warning letter re noise disturbance  
October 26, 2017 – final warning letter re unauthorized tenant  
September 19, 2017 – letter re unauthorized tenant  
September 11, 2017 – final warning re disturbance / intimidation

The landlord provided undisputed verbal testimony that since this tenancy began on September 1, 2017 until the issuance of the One Month Notice on July 31, 2018, she had received 11 noise disturbance complaints from the residents of the rental units surrounding the tenant. The landlord testified that the tenant has been issued with six letters regarding the noise disturbance complaints and requests for the tenant to declare the unauthorized tenant, who is her boyfriend, residing in her rental unit.

The landlord testified that on June 30, 2018 at 4:49 a.m., she was called by one of the residents in a rental unit near the tenant reporting a disturbance at the tenant’s rental unit. The landlord stated that earlier, a neighbouring tenant had called police to attend as a result of a disturbance between the tenant and her boyfriend. The boyfriend had been removed by the police but had apparently returned and a disturbance ensued. By 5:30 a.m., the landlord attended at the tenant’s rental unit to check on the issue, and found the tenant alone with her children, with blood down the front of her top. The landlord testified that while she was there, the boyfriend showed up at the rental unit and became argumentative when the landlord asked him to leave. Neighbouring residents once again called police to intervene. Police arrived and directed the boyfriend to leave the property. The police stated to the landlord that they were unable to address the matter further as the boyfriend told the police that the tenant’s rental unit was his “home address”.

The landlord explained that the tenant is the only adult listed on the tenancy agreement, and that other than her children, there must not be any other permanent occupant of the rental unit because the tenant’s rent is subsidized based on her reported income, which is required to be calculated on the income of all declared tenants residing in the rental unit.

The landlord testified that the tenant has been warned in writing on at least three occasions that as a term of her tenancy agreement, she has to either declare her boyfriend as a tenant on the tenancy agreement by completing a form, or remove him from the rental unit.

The landlord testified that the tenant continued to ignore these requests and the continued and escalating altercations between the tenant and her boyfriend has unreasonably disturbed the surrounding residents of the rental property, which include children and survivors of abuse.

The landlord testified that she was unsure if the tenant is still residing at the rental unit. There still appears to be the tenant's personal belongings at the rental unit, but the landlord stated that neighbouring residents reported that the tenant has not been seen at the rental unit in the past week.

### Analysis

Section 55 of the *Act* provides 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 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case, I have dismissed the tenant's application in its entirety, without leave to reapply, as the tenant failed to attend the hearing to present evidence.

Therefore, I now must consider if the landlord's One Month Notice meets the requirements of section 52 of the *Act* to determine if the landlord is entitled to an Order of Possession.

Section 52 of the *Act* provides 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.

In the matter at hand, the tenant submitted a copy of the One Month Notice into evidence.

I have reviewed the One Month Notice and I find that the notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I accept the landlord's undisputed testimony that the tenant has significantly interfered with or unreasonably disturbed other occupants of the rental property and breached a material term of the tenancy agreement.

Accordingly, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after being served upon the tenant.

### Conclusion

The tenant's application is dismissed in its entirety, without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. 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.

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: October 04, 2018

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Residential Tenancy Branch