



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC FF CNC LAT LRE MNDCT MT OLC RP

### Introduction

This hearing was scheduled to consider applications from both the landlord and tenant pursuant to the *Residential Tenancy Act* (the “*Act*”).

The tenant sought:

- cancellation of the landlord’s 1 Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act*;
- an Order prohibiting the landlords from entering the rental unit pursuant to section 70 of the *Act*;
- a monetary award pursuant to section 67 of the *Act*;
- more time to dispute the notice to end tenancy pursuant to section 66 of the *Act*;
- an Order directing the landlord to comply with the *Act* pursuant to section 62; and
- a return of the filing fee pursuant to section 72.

The landlord sought:

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

Only the landlord, represented by agent, S.W. attended the hearing. The landlord was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The landlord explained that the 1 Month Notice for Cause was sent to the tenant by ways of Canada Post Registered Mail on September 19, 2018. A copy of the Canada Post Registered Mail tracking number was provided to the hearing. Pursuant to sections 89(2) & 90 of the *Act*, the tenant is deemed served with this notice five days after its

posting, in this case, September 24, 2018.

On October 24, 2018 the landlord sent the tenant a copy of his application for dispute and his evidentiary package by way of Canada Post Registered Mail. A Canada Post tracking number was provided to the hearing. Pursuant to sections 88, 89 & 90 of the *Act* the tenant is deemed served with these documents five days after their posting, in this case, October 29, 2018.

The landlords confirmed receipt of the tenant's application for dispute and evidentiary package and is found to have been duly served with these documents in accordance with the *Act*.

### Analysis

Rule 7.3 of the Rules of Procedure provides as follows:

**7.3 Commencement of 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 re-apply.

Section 55(1) of the *Act* reads as follows:

**55** (1) *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,*

*(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.*

After reviewing the Notice to End Tenancy supplied to the hearing by the landlord dated September 19, 2018, I find that the Notice to End Tenancy supplied by the landlord complies with section 52 of the *Act*.

The tenant's failure to attend this hearing and present the evidence submitted as part of their evidentiary package contained in their application leads me to order that their application to cancel the 1 Month Notice is dismissed without liberty to reapply. I am

dismissing without leave to reapply because I find the fact that the tenant was aware of the hearing as they submitted several pieces evidence in support of their application to dismiss the landlord's application for an Order of Possession.

Based on my decision to dismiss the tenant's application for dispute resolution and my finding that the landlord's 1 Month Notice complies with section 52 of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, October 31, 2018. As the tenant is still in occupation of the rental unit, the landlords are entitled to a 2 Day Order of Possession.

As the landlord was successful in their application, they may pursuant to section 72 of the *Act*, retain \$100.00 from the tenant's security deposit in satisfaction for a return of the filing fee.

### Conclusion

The landlord is provided with a formal copy of an Order of Possession effective 2 Days after service on the tenant. Should the tenant fail to comply with this Order, this Order may be enforced as an Order of the Supreme Court of British Columbia.

The tenant's application is dismissed in its entirety.

The landlord may retain \$100.00 from the tenant's security deposit in satisfaction for a return of the filing fee.

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: November 26, 2018

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Residential Tenancy Branch