



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC FFL

### Introduction

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

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted 10 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated August 23, 2018 was served on the tenants by registered mail sent on August 24, 2018. The landlord provided a Canada Post tracking number as evidence in support of service. I find based on the undisputed evidence that the tenants were deemed served with the landlord's 1 Month Notice on August 29, 2018, five days after mailing in accordance with sections 88 and 90 of the *Act*.

The landlord testified that the landlord's application for dispute resolution dated September 20, 2018 was served on each of the tenants registered mail sent on September 27, 2018. The landlord provided two Canada Post tracking numbers and receipts as evidence of service. I find that the tenants were deemed served with the landlord's application in accordance with sections 89 and 90 of the *Act*, on October 2, 2018, five days after mailing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee for their application?

### Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began in March, 2018. The monthly rent is \$1,600.00 payable on the first of each month. A security deposit of \$800.00 was collected and is still held by the landlord.

The landlord testified that the tenants have breached a material term of the tenancy by keeping pet cats and rabbits in the rental unit despite the tenancy agreement prohibiting pets. The landlord said that the tenants were told to rectify this situation but failed to do so.

### Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend.

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause, a tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenants have failed to file an application for dispute resolution within the 10 days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenants are conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ends on the effective date of the 1 Month Notice, September 30, 2018.

I find that the landlord's 1 Month Notice meets the form and content requirements of section 52 of the *Act* as it is in the approved form and clearly identifies the parties, the address of the rental unit, the effective date of the notice and the reasons for ending the tenancy. Therefore, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date has passed I issue an Order of Possession effective two days after service.

As the landlord's application was successful the landlord may recover the \$100.00 filing fee.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenants' \$800.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service**. Should the tenant or any occupant 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.

The security deposit for this tenancy is reduced by \$100.00 to \$700.00.

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 5, 2018

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Residential Tenancy Branch