



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OPC CNC FF

### Introduction

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for cause pursuant to section 55;

Tenant:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:50 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on November 28, 2018, a copy of the Application for Dispute Resolution and Notice of Hearing was served to the tenants by posting to the door of the rental unit.

Based on the above evidence, I am satisfied that the tenants were served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Further, the tenants filed their own application which was set to be heard on this same date and time so the tenants ought to have been aware of the hearing. The landlord testified that he was not served with a copy of the tenants' application.

### Issues

Should the One Month Notice be cancelled? If no, is the landlord entitled to an order of possession for cause?

### Background and Evidence

The tenancy began on July 1, 2018 with a monthly rent of \$1295.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on November 2, 2018 he served the tenant with the One Month Notice by posting a copy to the door of the rental premises. A witnessed Proof of Service form of the Notice to End Tenancy was provided on file. The effective date on the One Month Notice is December 6, 2018 which is incorrect and should be December 31, 2018.

### Analysis

I am satisfied that the tenants were deemed served with the One Month Notice on November 2, 2018, pursuant to sections 88 & 90 of the Act. The tenants acknowledged service on this date in their own application.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the One Month Notice. If the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the “corrected” effective date of the One Month Notice, December 31, 2018.

Although the tenants filed an application for dispute resolution within the time limit permitted under the Act, the tenants’ application is dismissed in its entirety as the tenant did not attend the hearing to present evidence in dispute of the One Month Notice nor did the tenants serve a copy of their application on the landlord. I find the tenants are conclusively presumed to have accepted that the tenancy ended on the “corrected” effective date of the One Month Notice, December 31, 2018.

I find that the One Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

### Conclusion

I grant an Order of Possession to the landlord effective December 31, 2018. 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: December 17, 2018

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Residential Tenancy Branch