



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

### Introduction

This hearing dealt with the tenants' application pursuant to section 47 of the *Residential Tenancy Act* (the *Act*) for cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice).

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenants confirmed that they received the first page of the 1 Month Notice sent by the landlord by registered mail on November 1, 2018, but not the second page. Although the landlord testified that they included both pages of the 1 Month Notice in the initial 1 Month Notice sent to the tenants on November 1, 2018, the parties agreed that the landlord sent and the tenants received both pages of the landlord's 1 Month Notice when the tenants received another registered mail package from the landlord sent by the landlord by registered mail on December 5, 2018. I find that the tenants were duly served with this Notice in accordance with section 88 of the *Act*, since the tenants did apply to cancel the 1 Month Notice within the time period established under section 47 of the *Act*, and were well aware of the landlord's reasons for seeking an end to this tenancy after they acknowledged receiving both pages of the 1 Month Notice at least a week before this hearing.

As the landlord confirmed that they received a copy of the tenants' dispute resolution hearing package sent by the tenants by registered mail on November 7, 2018, I find that the landlord was duly served with this package in accordance with section 89 of the *Act*. Since both parties confirmed that they had received one another's written evidence, I find that the written evidence was served in accordance with section 88 of the *Act*.

### Issues(s) to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

### Background and Evidence

The parties signed a six-month fixed term Residential Tenancy Agreement (the Agreement) on October 8, 2016, for a tenancy that was to run from November 1, 2016 until May 1, 2017. This tenancy continued as a month-to-month tenancy after the initial Agreement expired. Monthly rent is set at \$1,200.00, payable in advance by the first of each month. The landlord continues to hold the tenants' \$600.00 security deposit and \$600.00 pet damage deposit.

The landlord's 1 Month Notice was issued for the following reason:

*Tenant is repeatedly late paying rent.*

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding resolution of their dispute:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on March 31, 2019, by which time the tenants will have surrendered vacant possession of the rental unit to the landlord.
2. The tenants agreed to pay the landlord the scheduled \$1,200.00 rent payments in full before the 2nd of each month for the remaining three months of this tenancy (i.e., for January, February and March 2019), and the landlord agreed to accept these payments for use and occupancy only and not to reinstate this tenancy beyond March 31, 2019.
3. The landlord agreed to withdraw all existing notices to end this tenancy that have been issued to date.

4. Both parties agreed that this settlement agreement constituted a final and binding resolution of the tenants' application and all issues currently in dispute arising out of this tenancy and that they did so of their own free will and without any element of force or coercion having been applied.

### Conclusion

To give effect to the settlement reached between the parties and as discussed at the hearing, I issue the attached Order of Possession to be used by the landlord if the tenants do not vacate the rental premises in accordance with their agreement by 1:00 p.m. on March 31, 2019. The landlord is provided with these Orders in the above terms and the tenant (s) must be served with an Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. 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