



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      AAT, CNC, DRI, ERP, LAT, LRE, MNDCT, OLC, OPT, OT, PSF, RR, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the “Act”) for an order allowing access to the Tenant or guests, to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”), to dispute a rent increase, for an order for emergency repairs, for authorization to change the locks, to suspend or restrict the Landlords’ right to enter, for an order for the Landlords to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, for an Order of Possession for the Tenant, for an order for services or facilities required by the tenancy agreement or law to be provided, for an order reducing rent for repairs, services or facilities agreed upon but not provided, and for the recovery of the filing fee paid for this application.

The Tenant and both Landlords were present for the duration of the teleconference hearing. The Tenant had a witness present at the outset of the hearing, who was asked to exit the call until the Tenant was ready for his witness testimony. However, the Tenant did not ask the witness to join the call during the hearing, so no witness testimony was provided.

The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package by registered mail but stated they did not receive any evidence from the Tenant. The Tenant confirmed that she had additional evidence ready to send to the Residential Tenancy Branch and the Landlords but did not realize the timeframes in place and therefore was too late to send it. The Tenant confirmed receipt of the Landlords’ evidence package. Only the evidence sent to the Residential Tenancy Branch and served to the other party in accordance with the *Residential Tenancy Branch Rules of Procedure* will be considered.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

### Preliminary Matters

At the outset of the hearing, the Tenant stated that she is in the process of moving out. She confirmed that the claims filed on her Application for Dispute Resolution were no longer relevant, except for the dispute over the One Month Notice, her claim for monetary compensation and her claim for the return of the filing fee.

At the hearing, the parties agreed that the tenancy would end through a settlement agreement. The Tenant also stated later in the hearing that she did not want to continue with her monetary claims at this time. As such, the Tenant's monetary claims are dismissed with leave to reapply. As the remainder of the Tenant's claims are related to the tenancy, which is ending through a settlement agreement, the remainder of the Tenant's claims are dismissed without leave to reapply. This decision will address the dispute over the One Month Notice through the settlement agreement as well as the Tenant's request for the recovery of the filing fee.

### Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, are the Landlords entitled to an Order of Possession?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

Neither party submitted the One Month Notice into evidence. However, the Tenant stated that she is in the process of moving out of the rental unit and will be able to complete her move by January 15, 2018. Therefore, the parties came to a settlement agreement which will be outlined below.

The Tenant requested that the Landlords pay for the filing fee in the amount of \$100.00. However, as the parties were not in agreement as to who would pay the filing fee, the

parties were advised that a decision would be made on the filing fee separate from the settlement agreement.

### Settlement

In accordance with Section 63 of the *Act*, parties may be assisted to reach a settlement and for that settlement to be recorded in the form of a decision and order. During the hearing, the process for a settlement agreement was explained and the parties came to the following agreement:

1. The Tenant will move out of the rental unit no later than January 15, 2019 at 1:00 pm.
2. The Landlords will be issued an Order of Possession effective January 15, 2019 at 1:00 pm.

The parties confirmed that they were entering into the settlement agreement voluntarily and of their own free will. The parties also confirmed that they understood the final and binding nature of the agreement reached and that this settles the dispute over the notice to end tenancy.

### Analysis

The parties came to a settlement agreement as outlined above over the dispute of the One Month Notice and whether the tenancy should end. As the parties came to an agreement that the Tenant would move out, I find that it is not necessary to make a finding on the validity of the One Month Notice.

At the outset of the hearing, the Tenant stated she was seeking compensation for her monetary claims. However, during the hearing, the Tenant confirmed that she is no longer seeking any compensation with the exception of the \$100.00 filing fee.

Pursuant to Section 72 of the *Act*, a party may be awarded the recovery of the filing fee. However, as no decision was made as to the merits of the One Month Notice in dispute and the parties came to a settlement agreement, I decline to award the Tenant the recovery of the filing fee.

### Conclusion

The parties are ordered to follow the settlement agreement outlined above. To uphold the settlement agreement, I grant an Order of Possession to the Landlords effective

**January 15, 2019 at 1:00 pm.** This Order must be served on the Tenant. Should the Tenant 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 18, 2018

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Residential Tenancy Branch