



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ASSOCIA BRITISH COLUMBIA, INC  
and [tenant name suppressed to protect privacy]

## **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 for the application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 10 minutes. The corporate landlord was represented by its agents who attended and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The agent PB (the "landlord") primarily spoke on behalf of the corporate landlord.

The landlord testified that a 1 Month Notice to End Tenancy for Cause (the "1 Month Notice"), dated October 23, 2018 was served on the tenants on that date by posting on the rental unit door in the presence of a witness. The landlord submitted into evidence a signed Proof of service form. Based on the evidence I find that the tenants were deemed served with the 1 Month Notice on October 26, 2018, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated December 3, 2018 was served on the tenants with the evidentiary materials by registered mail sent on December 6, 2018. The landlord provided a Canada Post tracking number as evidence of service. Based on the evidence, I find that the tenants were deemed served with the landlord's application package in accordance with sections 88, 89 and 90 of the *Act*, on December 11, 2018, five days after mailing.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord gave undisputed evidence regarding that this periodic tenancy began in 2012. A security deposit of \$450.00 was collected at the start of the tenancy and is still held by the landlord. The tenants continue to occupy the rental unit.

The landlord testified that they have received numerous complaints about the tenants from other occupants of the rental building. The tenants have caused excessive noise, have been involved in police incidents at the rental building and have acted aggressively with other residents. The landlord submitted the written complaints and warning letters issued to the tenants. The landlord said the tenants' behaviour have significantly interfered with and unreasonably disturbed the other occupants. The landlord testified that they issued the 1 Month Notice of October 23, 2018 and are unaware of the tenants applying for dispute resolution to cancel the 1 Month Notice.

### 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, the 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, November 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 of the 1 Month Notice has passed, I issue a 2 day Order of Possession.

As the landlord's application was successful they are also entitled to recover the filing fee for this application from the tenants.

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' \$450.00 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 **2 days after service on the tenant**. Should the tenants 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 tenant's security deposit is reduced by \$100.00 from \$450.00 to \$350.00.

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: January 17, 2019

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Residential Tenancy Branch