



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT  
COMMISSION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed under the *Residential Tenancy Act* (the “Act”), to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) issued December 28, 2018. The matter was set for a conference call.

The Landlord attended the conference call hearing; however, the Tenant did not. As the Tenant is the applicant in this hearing, I find that the Tenant had been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in his testimony and was provided with the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision

### Issues to be Decided

- Should the Notice to End Tenancy be cancelled?
- If not, is the Landlord entitled to an Order of Possession?

### Background and Evidence

The Landlord testified that he served the Notice to End Tenancy to the Tenant on December 28, 2018, by posting it to the front door of the rental unit. A signed copy of the Notice had submitted by the Tenant with his application for this hearing.

The reason checked off within the Notice is as follows:

- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord
  - *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Tenant or person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to:*
  - *Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the Landlord*
  - *Jeopardize a lawful right or interest of another occupant or the Landlord*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so*

The Notice states that the Tenant must move out of the rental unit by February 28, 2019. The Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice also informed the Tenant that if an application to dispute the Notice is not filed within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit on the date set out on page one of the Notice.

### Analysis

Based on the above, the oral testimony and the documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant received the Notice on December 31, 2018, three days after it was posted to the front door of the rental unit and did apply to dispute the Notice within the legislated timeline. This matter was set for hearing by telephone conference call at 11:00 a.m. on this date. The line remained open while the phone system was

monitored for ten minutes and the only participant who called into the hearing was the Landlord.

Rules 7.1 and 7.3 of the Rules of Procedure provide as follows:

**7.1** The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

**7.3** If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Therefore, as the Tenant did not attend the hearing by 11:10 a.m., I dismiss the Tenant's application without leave to reapply.

Section 55(1) of the *Act* states:

Order of possession for the landlord

**55(1)** If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the *Act* and is valid and enforceable.

Pursuant to section 55 of the *Act*, if the tenant's application is dismissed and the Notice complies with section 52, I am required to grant the landlord an order of possession to the rental unit. Therefore, I find that the Landlord is entitled to an order of possession, effective not later than 1:00 p.m. on February 28, 2019.

Conclusion

The Tenant's application is dismissed, without leave to reapply.

I grant an **Order of Possession** to the Landlord effective not later than 1:00 p.m. on **February 28, 2019**. The Tenant must be served with this Order. 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: February 12, 2019

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Residential Tenancy Branch