



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SKC HOLDINGS INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:14 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, the landlord and I were the only ones who had called into this teleconference.

The landlord provided sworn testimony supported by written evidence that they handed the 1 Month Notice to End Tenancy for Unpaid Rent (the 1 Month Notice) to an adult MB who confirmed that they were then residing on the premises on December 31, 2018, 2018. I find that the tenant was served with this Notice in accordance with section 88 of the *Act*. The landlord entered undisputed sworn testimony and written evidence that they sent the tenant a copy of the dispute resolution hearing package by registered mail on January 22, 2019. The landlord provided a copy of the Canada Post Tracking Number and written evidence that the tenant signed for receipt of this package on January 23, 2019. I find that the landlord was deemed served with this package in accordance with sections 89 and 90 of the *Act* on January 28, 2019. Based on the landlord's undisputed written evidence and sworn testimony, I also find that the tenant was deemed served with a copy of the landlord's written evidence in accordance with sections 88 and 90 of the *Act*.



### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for cause based on the 1 Month Notice? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The landlord provided undisputed written evidence that the parties signed a Residential Tenancy Agreement on August 24, 2018 for a one-year fixed term that is to run from September 1, 2018 until August 31, 2019. Monthly rent is set at \$1,150.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$575.00 security deposit paid on August 24, 2018.

The landlord entered into written evidence a copy of the 1 Month Notice requiring the tenant to end this tenancy by January 31, 2019, for the following reason cited on the Notice:

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*

The landlord provided sworn testimony and written evidence to support the landlord's assertion that this tenancy should be ended for the reason cited in the 1 Month Notice.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file an application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, January 31, 2019.

I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated



by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, and (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

As the landlord gave undisputed sworn testimony that the tenant has not paid rent for February 2019, I issue an Order of Possession to take effect within two days of service upon the tenant.

As the landlord has been successful in this application, I allow the landlord's application to recover the \$100.00 filing fee from the tenant. Although the landlord's application does not seek to retain any portion of the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 from the tenant's security deposit in satisfaction of the monetary award.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** 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.

I order the landlord to recover the \$100.00 filing fee for this application by retaining this amount from the tenant's security deposit. The value of the security deposit for this tenancy is hereby reduced from \$575.00 to \$475.00.

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: February 21, 2019

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Residential Tenancy Branch