



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GAYLYNN APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Code      CNC

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on March 15, 2019 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause, dated March 7, 2019, 2019 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord was represented at the hearing by L.K., an agent, who provided a solemn affirmation. The Tenant did not attend the hearing. However, S.P. attended the hearing to advise that the Tenant has not attended his last 2 dialysis treatments and that hospitalization has been recommended. S.P. confirmed he is unable to speak on behalf of the Tenant but suggested an adjournment would be appropriate.

Rule of Procedure 7.9 sets out the following criteria when considering a request for an adjournment:

*Without restricting the authority of the arbitrator to consider other factors, the arbitrator will consider the following when allowing or disallowing a party's request for an adjournment:*

- *the oral or written submissions of the parties;*
- *the likelihood of the adjournment resulting in a resolution;*
- *the degree to which the need for the adjournment arises out of the intentional actions or neglect of the party seeking the adjournment;*
- *whether the adjournment is required to provide a fair opportunity for a party to be heard; and*
- *the possible prejudice to each party.*

[Reproduced as written.]

In this case, I decline to grant an adjournment to the Tenant. While I accept the information provided by S.P., the Application was made on March 15, 2019, roughly 6 weeks before the date of the hearing. The Tenant had ample opportunity to obtain the assistance of advocate or agent to attend the hearing and present evidence on his behalf. Indeed, the attendance of S.P. suggests the Tenant was aware of the time and date of the hearing, and discussed his ability to attend with S.P. in advance of the hearing.

In addition, L.K.'s testimony, which I accept, addressed the "disgusting" condition of the rental unit. Specifically, L.K. testified that the Tenant does not clean the unit regularly as required; the Landlord has to have a plumber attend the rental unit regularly because the Tenant does not flush the toilet; there is mouse excrement on the floor of the rental unit; the food in the fridge is rotten; and that the Landlord has received complaints from other tenants about the smell emanating from the Tenant's rental unit. L.K. testified she cannot enter the rental unit because she has previously become ill after doing so. Photographs depicting the interior of the rental unit were submitted in support.

Balancing the non-exhaustive list of factors set out in Rule of Procedure 7.9, I find that an adjournment would prejudice the Landlord's ability to address the condition of the rental unit. The request for an adjournment is denied.

As the Tenant did not attend the hearing and was not represented, I find that the Application is dismissed. When a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with section 52 of the *Act*, section 55 of the *Act* requires that I grant an order of possession to a landlord. Having reviewed the One Month Notice submitted into evidence, I find it complied with section 52 of the *Act*. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

### Conclusion

The Application is dismissed, without leave to reapply.

By operation of section 55 of the *Act*, I grant the Landlord an order of possession. The order will be effective two (2) days after service on the Tenant. The order may be filed in 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: April 29, 2019

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Residential Tenancy Branch