



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EDUARDO HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on April 3, 2019 (the "Application"). The Tenant applied to cancel a One Month Notice for Cause dated March 26, 2019 (the "One Month Notice"), pursuant to the *Residential Tenancy Act* (the "Act"):

The hearing was scheduled for 9:30 A.M. on May 21, 2019 as a teleconference hearing. M.O and J.W. appeared on behalf of the Landlord and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that M.O., J.W., and I were the only persons who had called into this teleconference.

J.W. testified that the Landlord's documentary evidence package was served to the Tenant in person on May 13, 2019 in response to the Tenant's Application. Based on the oral and written submissions of the Landlord, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Landlord's documentary evidence on May 13, 2019.

### Preliminary Matters

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As the Applicant did not attend the hearing, I dismiss the Tenant's application without leave to reapply.

I note that Section 55 of the *Residential Tenancy Act (Act)* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession, pursuant to Section 55 of the *Act*?

Background and Evidence

J.W. testified that the tenancy began on January 1, 2017. Currently, the Tenant pays rent in the amount of \$1,500.00 to the Landlord which is due on the first day of each month. The Tenant paid a security deposit in the amount of \$725.00 which the Landlord continues to hold. J.W. stated that the Tenant continues to reside in the rental unit and has paid rent for the month of May 2019.

J.W. testified that the Tenant has been late paying rent to the Landlord in August 2017, September 2018, November 2018 and March 2019. For the above mentioned reasons, J.W. stated that the Landlord served the Tenant in person with the One Month Notice on March 26, 2019 with an effective vacancy date of April 30, 2019. The Landlord's reason for ending the tenancy on the One Month Notice is the Tenant is repeatedly late paying rent.

As noted above, the Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the uncontested documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the *Act*, a Landlord may end a tenancy by giving notice to end the tenancy for cause.

The Landlord served the Tenant in person with the One Month Notice on March 26, 2019 with an effective vacancy date of April 30, 2019. I find the One Month Notice was sufficiently served pursuant to Section 88 and 90 of the Act.

The Residential Tenancy Policy Guideline 38 states that a Landlord may end a tenancy where the Tenant is repeatedly late paying rent. Three late payments are the minimum number sufficient to justify a notice under these provisions.

As no one appeared for the Tenant at the time of the hearing, I find that their Application to cancel the One Month Notice is dismissed without leave to reapply.

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 issue an order of possession in favour of the Landlord. Having reviewed the One Month Notice, I find it complies with section 52 of the *Act*. Accordingly, I grant the Landlord an order of possession, which will be effective at 1:00 P.M. on May 31, 2019.

### Conclusion

The Tenant's Application to cancel a One Month Notice is dismissed without leave to reapply. The Landlord is granted an order of possession, which will be effective at 1:00 P.M. on May 31, 2019 after service on the Tenant. This order should be served as soon as possible and 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: May 21, 2019

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Residential Tenancy Branch