



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RANDALL NORTH REAL ESTATE SERVICES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL MNDL-S MNRL-S OPC

### Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and damages pursuant to section 67; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to contain the correct instructions to attend. The corporate landlord was represented by their agent DS (the "landlord") who was given a full opportunity to give affirmed testimony, present evidence, make submissions and call witnesses.

The landlord testified that they served the 1 Month Notice dated April 25, 2019 on the tenant by posting on the rental unit door on April 26, 2019. Based on the testimony I find that the tenant was deemed served with the 1 Month Notice on April 29, 2019, three days after posting, in accordance with sections 88 and 90 of the *Act*.

The landlord gave evidence that they served their application for dispute resolution and evidence on the tenant by registered mail sent on or about June 3, 2019. The landlord provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant was deemed served with the landlord's materials on June 8, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?  
Is the landlord entitled to a Monetary Award as claimed?  
Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

This periodic tenancy began in June 2018. The monthly rent is \$975.00 payable on the first of each month. The rental unit is a suite in a townhouse complex containing 31 units. A security deposit of \$450.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord issued a 1 Month Notice dated April 25, 2019 providing the following reasons for the tenancy to end:

*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 has caused extraordinary damage to the unit/site or property/park.*

The landlord testified that the tenant's dog has attacked neighbors and that the tenant disposes of household garbage and dog feces by hurling it into adjacent properties. The landlord submitted into documentary evidence complaint letters issued by several neighbors as well as photographs of the condition of the rental suite and adjacent units.

The landlord testified that as of the date of the hearing there is a rental arrear of \$1,790.00. The landlord also submits that they expect the cost of cleaning and repairs will be \$500.00.

### Analysis

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 tenant has 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 tenant is 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, May 31, 2019.

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. I find that there is sufficient evidence in the landlord's submission including written complaints from neighbors, photographs and the landlord's testimony to establish the cause for ending this 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.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the evidence of the landlord that there is a rental arrear of \$1,790.00 as at the date of the hearing and issue a monetary award in that amount accordingly.

While I accept that the rental unit will require considerable cleaning and repairs after the end of the tenancy, I find there is insufficient evidence to establish that the cost to the landlord will be \$500.00. I find that the landlord has not met their evidentiary burden for this portion of their claim and I consequently dismiss it.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$450.00 security deposit in partial 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 tenant 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.

I issue a Monetary Award in the amount of \$1,440.00 under the following terms:

Item	Amount
Rental Arrears	\$1,790.00
Filing Fees	\$100.00
Less Security Deposit	-\$450.00
<b>Total Monetary Order</b>	<b>\$1,440.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: July 19, 2019

---

Residential Tenancy Branch