



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SELECT REAL ESTATE PROPERTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, OLC

### Introduction

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

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to section 47; and,
- an order for the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The landlord attended the hearing. The landlord had full opportunity to provide affirmed testimony, present evidence, and make submissions.

The tenant did not attend the hearing. I kept the teleconference line open for the duration of the hearing to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct participant code was provided to the tenant.

### Preliminary Matter – Non-Appearance of Tenant at the Hearing

Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing – 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 reapply.

As the applicant tenant did not attend the hearing, and in the absence of any evidence or submissions, I order the tenant's application be dismissed without leave to re-file.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession pursuant to section 55 of the Act?

### Background and Evidence

The landlord testified that the tenant has had permitted a guest to live in a tent on a driveway on the property and the tenant has been frequently making excessive noise at night which has disturbed other occupants. The landlord testified that other occupants made multiple complaints and one occupant ended their tenancy because the noise was so disturbing. The landlord issued the One Month Notice after receiving a noise complaint on August 9, 2019 which resulted in a police response.

The landlord issued the One Month Notice on August 20, 2019. The landlord testified that the One Month Notice was personally served on the tenant on the same day. The One Month Notice stated the following grounds for ending the tenancy:

- The tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; and,
- Tenant or a 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 the other occupant.

### Analysis

The tenant has made an application to cancel the landlord's One Month Notice and that application has been dismissed. Section 55 of the *Act* states that when a tenant's application to cancel a notice to end tenancy for cause is dismissed, I must grant the landlord an order of possession if the landlord has issued a notice to end tenancy in compliance with the *Act*. I find the form and content of the One Month Notice does comply with section 52 of the *Act*.

Furthermore, section 47(1)(d) of the *Act* permits a landlord to end a tenancy if a tenant has "significantly interfered with or unreasonably disturbed another occupant or the landlord" or the tenant has "seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant."

I find that, based on the landlord's undisputed testimony, the landlord has presented sufficient evidence to establish that the tenant has repeatedly made excessive noise which has significantly interfered with and unreasonably disturbed other occupants.

Accordingly, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**.

### Conclusion

I order the tenant's application be dismissed without leave to reapply.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order 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: October 29, 2019

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Residential Tenancy Branch