



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FFT

### 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,
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses and cross-examine witnesses.

Since both parties attended the hearing and submitted evidence for the hearing, I find that the parties were both sufficiently served pursuant to section 71(2)(c) of the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to cancellation of the landlord's One Month Notice pursuant to section 47?

If not, is the landlord entitled to an order of possession pursuant to section 55?

Is the tenant entitled to recover the filing fee for this application pursuant to section 72?

### Background and Evidence

The landlord testified that the city sent the landlord a letter on August 13, 2019 stating that the landlord was not permitted to have occupants in the rental unit. The landlord provided a copy of the letter which stated that the occupancy of the rental unit was in violation of the provisions of Agriculture Land Commission Act. The letter stated that occupancy must cease by September 30, 2019.

The landlord testified that She issued the One Month Notice on August 30, 2019 and posted the notice on the tenant's door. The tenant testified that he found the notice on his door on September 2, 2019 when he returned from a weekend trip.

Only the first page of the One Month Notice was submitted as evidence to Residential Tenancy Branch. However, during the hearing the landlord testified that they check off the box on the second page of the form which stated that the basis for ending the tenancy was a claim that the "Rental unit/site must be vacated to comply with a government order." The tenant also confirmed that he understood that this was basis upon which the landlord was seeking to end the tenancy.

The tenant testified that he spoke with the city bylaw officer that sent the letter and she advised him the city does not get involved in tenancy disputes. The tenant argued that, as a result, the tenancy did not need to be ended pursuant to a government order.

### Analysis

Section 47(k) of the *Act* states that a landlord may give notice to end a tenancy if "the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority."

In this matter, I find that the city has issued an order that the rental unit must be vacated. The letter from the city mandates that occupation of the rental unit cease. Further, I find a mandate from the city to be a government order within the meaning of section 47(k).

I do not find the tenant's evidence regarding his discussions with the bylaw enforcement officer to be relevant to the validity of the city order. Regardless of what the city's normal practice is, I find that the city did issue an order mandating the occupancy of the rental unit cease and a government order to cease occupancy is valid basis to end a tenancy pursuant to section 47(k).

Accordingly, I find that landlord has established the existence of good cause to end this tenancy and I dismiss the tenant's application to cancel the One Month Notice.

Section 55 of the *Act* requires that, when a tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy is dismissed, I must grant the landlord an order of possession if the landlord issued a notice to end tenancy in compliance with the *Act*.

Based upon the testimony of the parties and the first page of the notice which was submitted, I find the form and content of the One Month Notice does comply with section 52 of the *Act*. Accordingly, I find the landlord is entitled to an order of possession effective two days after service on the tenant.

Since the tenant has not prevailed in this matter, the tenant's application for reimbursement of the filing fee is dismissed pursuant to section 72.

### Conclusion

The tenant's application is dismissed.

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 31, 2019

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Residential Tenancy Branch