



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN PROPERTIES LIMITED  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC FFL CNC FFT

### Introduction

This hearing dealt with applications from both the landlord and tenant pursuant to the *Residential Tenancy Act* (the “Act”).

The landlord applied for an order of possession pursuant to section 55 and authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant applied to dispute the 1 Month Notice to End Tenancy for Cause pursuant to section 47 and to recover the filing fee from the landlord 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 and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the “landlord”) who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that the tenant has been served with the landlord’s application and evidence by registered mail. The landlord provided a valid Canada Post tracking number as evidence of service. Based on the evidence I find that the tenant was served with the landlord’s materials in accordance with sections 88 and 89 of the *Act*.

### Issues

Is the tenant entitled to any of the relief sought?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

The landlord testified that the tenant has vacated the rental unit and they are no longer seeking an Order of Possession.

The landlord testified that they are holding a security deposit of \$575.00 for this tenancy.

### Analysis

Rule 7.3 of the 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.

Accordingly, as the tenant did not attend the hearing, I dismiss the tenant's application without leave to reapply.

I have dismissed the tenant's application, and I find that the landlord's 1 Month Notice complies with the form and content requirements of section 52 of the Act. However, as the landlord explained that the tenancy has ended and an Order of Possession is not necessary, I decline to issue an Order.

The landlord is entitled to recover their filing fee from the tenant. I authorize the landlord to deduct \$100.00 from the security deposit for this tenancy.

### Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord is authorized to deduct \$100.00 from the security deposit for this tenancy. The security deposit is reduced from \$575.00 to \$475.00.

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: January 17, 2020