



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC FFL

### Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an order of possession and to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend the hearing which lasted approximately 15 minutes. The 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 they served the tenant personally with the notice of hearing and evidence on November 18, 2019 in the presence of a witness. Based on the evidence I find that the tenant was served with the landlord's materials on that date in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

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 monthly rent for this periodic tenancy is \$840.00 payable on the 15<sup>th</sup> of each month. A \$420.00 security deposit was collected and is still held by the landlord.

The landlord testified that they served the tenant with the 1 Month Notice to End Tenancy for Cause dated September 16, 2019 personally on the tenant on that same

date in the presence of a witness. The landlord submitted a signed Proof of Service form as evidence.

The 1 Month Notice provides the reason for the tenancy to end is that the:

*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;*
- *put the landlord's property at significant risk.*

*Tenant has engaged in illegal activity that has, or is likely to:*

- *damage the landlord's property*

The landlord testified that the tenant has caused unreasonable disturbance by issuing threatening letters to the landlord, has generated loud noises that have been a source of complaints in the neighborhood and have conducted themselves in a hostile and disruptive manner that has led to the issuance of the 1 Month Notice.

The landlord testified that as far as they are aware, the tenant has not filed an application to dispute the 1 Month Notice.

### 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 corrected effective date of the 1 Month Notice, November 15, 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 accept the evidence of the landlord that the tenant's conduct has been an

unreasonable disturbance to the landlord and others. 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.

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

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$420.00 security deposit in 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 tenants 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.

The tenant's security deposit is reduced by \$100.00 from \$420.00 to \$320.00.

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 9, 2020

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Residential Tenancy Branch