



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Terra Property Management and  
[tenant name suppressed to protect privacy]

## DECISION

**Dispute Codes**      OPC FFL

### **Introduction**

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

- an Order of Possession for cause pursuant to section 55; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent JH ("landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenant was sent a copy of the dispute resolution hearing package ('Application') and evidence by way of registered mail on January 10, 2020. The landlord provided the tracking information in their evidence. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant deemed served with the Application and evidence on January 15, 2020, five days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord's agent provided undisputed testimony that the tenant was served with the landlord's 1 Month Notice to End Tenancy For Cause ('1 Month Notice'), with an effective date of December 31, 2019, on November 27, 2019, by way of posting to the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on November 30, 2019, 3 days after posting.

### **Issues to be Decided**

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to recover the filing fee for this application?

### **Background and Evidence**

The landlord's agent provided undisputed testimony that this month to month tenancy began on March 15, 2016. The tenant pays monthly rent in the amount of \$375.00. The landlord currently holds a security deposit in the amount of \$425.00, and the tenant continues to reside in the rental unit.

The landlord submitted the notice to end tenancy providing four grounds:

1. the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
2. the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
3. the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk;
4. 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 another occupant; and
5. the tenant has allowed an unreasonable number of occupants in the rental unit/site.

The landlord's agent testified that the landlord has had ongoing issues with the tenant, and despite repeated attempts at addressing these issues with the tenant, the tenant continues to act in a manner that significantly interferes with and disturbs other tenants as well as its staff. The landlord testified that the tenant's behaviour has escalated to a level where they feel they have no choice to end this tenancy to ensure the safety and well-being of other tenants, as well as its employees. The landlord testified that the tenant has been issued repeated warnings, but the tenant has not heeded these warnings.

### **Analysis**

Based on undisputed testimony of the landlord, I find that the tenant was served with the Notice to End Tenancy, and I find that the 1 Month Notice does comply with the form and content provisions of section 52 of the *Act.*, which states that the Notice must: be in

writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten 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 ten 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 ended on the effective date of the 1 Month Notice, December 31, 2019.

In this case, this required the tenant and anyone on the premises to vacate the premises by December 31, 2019. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

As the landlord was successful in their application, I also allow the landlord to recover the filing fee for this application.

The landlord continues to hold the tenant's security deposit of \$425.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in the amount of \$100.00 in partial satisfaction of the monetary claim.

### **Conclusion**

I find that the landlord's 1 Month Notice is valid and effective as of December 31, 2019. I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I allow the landlord to recover the filing fee for this application. I order the landlord to retain \$100.00 of the tenant's security deposit in partial satisfaction of the monetary claim.

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*.