



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CKL INVESTMENTS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MNRL-S, FFL

### Introduction

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

- an order of possession for cause, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 18 minutes. The landlord's two agents, landlord JG ("landlord") and "landlord AG," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Landlord and landlord AG confirmed that they are both contractors and they had permission to represent the landlord company named in this application.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on February 8, 2020, by way of posting to the tenant's rental unit door. Landlord AG confirmed that she witnessed this service. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on February 11, 2020, three days after its posting.

The landlord confirmed that he served the tenant with the landlord's 1 Month Notice to End Tenancy for Cause, dated January 20, 2020 ("1 Month Notice"), on the same date. Landlord AG confirmed that she witnessed this service. The effective move-out date on the notice is February 29, 2020. 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 January 23, 2020.

During the hearing, the landlord confirmed that he did not require a monetary order for unpaid rent or to retain the security deposit against the rent because the rent was paid by the tenant. I notified him that the landlord's application to recover the unpaid rent was dismissed without leave to reapply and the application to retain the security deposit was dismissed with leave to reapply.

### Issue 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

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on December 1, 2018. Monthly rent in the amount of \$1,050.00 is payable on the first day of each month. A security deposit of \$525.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was provided for this hearing. The tenant continues to reside in the rental unit.

The landlord seeks an order of possession based on the 1 Month Notice. The landlord issued the notice because the "tenant is repeatedly late paying rent." The landlord said that the tenant was late paying rent four times during this tenancy on August 8, 2019, October 2, 2019, January 6, 2020 and February 10, 2020. The landlord confirmed that three warning letters were issued to the tenant on the above dates in August 2019, October 2019, and January 2020. The letters were provided for this hearing. The landlord stated that rent receipts were issued to the tenant for "use and occupancy only" on February 10 and March 1, 2020.

### Analysis

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement. Rent is due on the first day of each month, as per the written tenancy agreement. Residential Tenancy Policy Guideline 38 states that "three late payments

are the minimum number sufficient to justify a notice...” The landlord provided undisputed evidence that the tenant was late paying rent four times during this tenancy. Accordingly, I find that the tenant was repeatedly late paying rent. I find that the landlord’s 1 Month Notice was issued for a valid reason.

Therefore, I find that this tenancy ended on February 29, 2020, the effective date on the 1 Month Notice. I find that the landlord is entitled to an order of possession, effective at 1:00 p.m. on March 31, 2020, pursuant to section 55 of the *Act*. The landlord confirmed that the tenant paid rent for March 2020, so I find that the tenant is entitled to possession of the rental unit until the end of the month. I find that the landlord’s 1 Month Notice complies with section 52 of the *Act*.

As the landlord was only partially successful in this application, I find that it is not entitled to recover the \$100.00 filing fee from the tenant.

### Conclusion

I grant an Order of Possession to the landlord effective at 1:00 p.m. on March 31, 2020. Should the tenant or anyone 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 landlord’s application to retain the tenant’s security deposit is dismissed with leave to reapply. The tenant’s security deposit of \$525.00 is to be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

The landlord’s application for a monetary order for unpaid rent and to recover the \$100.00 filing fee is dismissed without leave to reapply.

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: March 09, 2020

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Residential Tenancy Branch