



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC, LRE, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking:

- Cancellation of a One Month Notice to End Tenancy for Cause (the “One Month Notice”);
- An order for the Landlord to comply with the Act, regulation or tenancy agreement;
- An order restricting or setting conditions on the Landlord’s right to enter the rental unit; and
- Recovery of the filing fee.

I note that section 55 of the Act requires that when a tenant submits an Application seeking to cancel a notice to end tenancy issued by a landlord, I must consider if the landlord is entitled to an order of possession if the Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the Act.

The hearing was convened by telephone conference call and was attended by the Tenant, and a different Landlord than the one named on the Application. All parties present provided affirmed testimony. Neither the Tenant or the Landlord raised concerns about service or receipt of the Notice of Dispute Resolution Proceeding, including a copy of the Application and notice of the hearing.

At the request of the parties, copies of the decision and any orders issued in their favor will be mailed to them at the addresses provided in the hearing.

### Preliminary Matters

In their Application the Tenant sought multiple remedies under multiple unrelated sections of the Act. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As the Tenant applied to cancel a One Month Notice, I find that the priority claim relates to whether the tenancy will continue or end. I find that the other claims are not sufficiently related to the One Month Notice and as a result, I exercise my discretion to dismiss the following claims by the Tenant with leave to reapply:

- An order for the Landlord to comply with the *Act*, regulation or tenancy agreement; and
- An order restricting or setting conditions on the Landlord's right to enter the rental unit.

As a result, the hearing proceeded based only on the Tenant's Application seeking cancellation of a One Month Notice and their request for recovery of the filing fee.

### Settlement

The opportunity for settlement was discussed with the parties during the hearing. The parties were advised on several occasions during the hearing that there is no obligation to resolve the dispute through settlement, but that pursuant to section 63 of the *Act*, I could assist the parties to reach an agreement, which would be documented in my Decision and supporting order.

During the hearing, the parties mutually agreed to settle this matter as follows:

1. The parties agree that the tenancy will end on June 30, 2020, at 1:00 P.M.
2. The parties agree that the Tenant may end the tenancy earlier than the date noted above, by providing written notice to end the tenancy to the Landlord.
3. The parties agree that the Tenant is not required to give 30-days notice, and that any amount of written notice to end the tenancy will be acceptable to the Landlord.
4. The Landlord agrees that they will not pursue or enforce any liquidated damages clause in the tenancy agreement, should one exist, if the tenancy ends in accordance with sections 1-3 of this agreement.
5. The Landlord agrees that they will not pursue or seek compensation for loss of rent for any of the balance of the fixed term of the tenancy agreement, except in exceptional circumstances such as major damage to the rental unit, if the tenancy ends in accordance with sections 1-3 of this agreement.
6. The parties agree that the Tenant will be entitled to a rent refund of any rent already paid for any days the rental unit is not occupied by the Tenant or their possessions if they give notice and end the tenancy early in accordance with sections 2 & 3 of this agreement. The amount of rent due back to the Tenant will

be calculated as follows: (Monthly rent amount/number of days in the month) multiplied by the number of days for which the Tenant is entitled to a rent refund.

7. The parties agree that the Tenant is entitled to the recovery of 50% of the \$100.00 filing fee, and that the Tenant is therefore entitled to withhold \$50.00 from the next month's rent.
8. The Landlord cancels the One Month Notice and the Tenant withdraws their Application seeking Cancellation of the One Month Notice and recovery of the filing fee as part of this mutually agreed settlement.

This settlement agreement was reached in accordance with section 63 of the *Act*.

### Conclusion

I order the parties to comply with the terms of their mutually settled agreement described above.

In support of the settlement described above, and with the agreement of the parties, I grant the Landlord an Order of Possession, effective 1:00 P.M. on June 30, 2020. This Order must be served on the Tenant as soon as possible. Should the Tenant fail to comply with this Order, this order may be filed in the Supreme Court of British Columbia and 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: March 26, 2020

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Residential Tenancy Branch