



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding POLLYCO VENTURES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

On February 14, 2020, the Tenant made an Application for Dispute Resolution seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with S.G. attending as his advocate. The Landlord attended the hearing with K.S. attending as an agent for the Landlord. All in attendance provided a solemn affirmation.

S.G. advised that the Landlord was served the Notice of Hearing package by registered mail on March 13, 2020. However, the Landlord advised that he had not received this package, but he was willing to proceed regardless. As the Landlord was prepared to proceed with the hearing despite not having the Notice of Hearing package before him, the hearing continued.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution 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 that complies with the *Act*.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the most current tenancy started on January 1, 2019. S.G. advised that a more current tenancy agreement was signed between the parties on November 2019; however, he did not submit a copy of this as documentary evidence and the Tenant did not provide any testimony with respect to this position. All parties agreed that rent was established at \$1,250.00 per month, due on the first day of each month and that a security deposit was not paid.

During the hearing, the parties turned their minds to reaching a full and final settlement agreement. The parties were able to reach an agreement and I have recorded the terms of agreement by way of this decision and the Monetary Order that accompanies it.

### Settlement Agreement

I raised the possibility of settlement pursuant to Section 63(1) of the *Act* which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I would make a final and binding decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written decision and make any necessary orders. I also explained that the written decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The One Month Notice to End Tenancy for Cause of January 31, 2020 is cancelled and of no force or effect.
2. The Tenant will give up vacant possession of the rental unit by **1:00 PM on June 15, 2020 after service of this Order** on the Tenant.
3. The Tenant must pay to the Landlord the amount of **\$250.00** for April 2020 rent arrears and must pay this amount **within one week** of the date of this decision.
4. The Tenant must pay to the Landlord the amount of **\$1,250.00** for May 2020 rent on May 1, 2020 as per the terms of the tenancy agreement.
5. The Tenant must pay to the Landlord the amount of **\$625.00** for half of June 2020 rent on June 1, 2020 as per the terms of the tenancy agreement.
6. The Landlord agrees not to pursue any rental arrears prior to April 2020.

If either of conditions three, four, or five are not satisfactorily complied with, the Landlord is granted an Order of Possession that is effective **two days after service of this Order** on the Tenant.

If either of conditions three, four, or five are not satisfactorily complied with, the Landlord is granted a Monetary Order in the amount of **\$2,125.00**. This Order is enforceable only if the Tenant fails to comply with the payment requirements set forth in the settlement above and is only enforceable in the amount of what remains unpaid.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the binding nature of this full and final settlement of these matters with respect to possession of the rental unit. The parties are still allowed to pursue other claims under the *Act* with respect to this tenancy, except for what is noted in condition six.

### Conclusion

I have recorded the terms of settlement in this decision and in recognition of the settlement agreement, based on the above, I hereby order that the One Month Notice to End Tenancy for Cause of January 31, 2020 to be cancelled and of no force or effect.

In addition, in support of the settlement described above and with agreement of both parties, the Landlord is granted an Order of Possession effective at **1:00 PM on June**

**15, 2020 after service of this Order** on the Tenant. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, the Landlord may file the Order with the Supreme Court of British Columbia and be enforced as an Order of that Court.

As well, in recognition of the settlement agreement, I provide the Landlord with a conditional Monetary Order in the amount of **\$2,125.00** to serve and enforce upon the Tenant, if necessary. The Order must be served on the Tenant by the Landlord. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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: April 8, 2020

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Residential Tenancy Branch