



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to cancel 1 Month Notice to End Tenancy for Cause, (the “Notice”) issued on February 12, 2020.

The landlord and the landlord’s agent appeared. The tenant’s agent appeared on behalf of the tenant.

### Preliminary and Procedural matters

At the outset of the hearing the tenant’s agent stated that they are requesting an adjournment on their son’s behalf. The agent stated that their son telephone her this morning saying he was sick and unable to attend.

The landlord stated that they object to the hearing delayed. The landlord stated that this is an issue of late payments of rent and that the tenant has not paid any rent for April 2020.

In this case, I do not find an adjournment is appropriate. The tenant acknowledged in their application that they have been late paying rent. The tenant has not paid rent for April 2020, I find any adjournment would be unfair and prejudicial to the landlord. Therefore, the request for an adjournment is denied.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on February 1, 2008. Current rent in the amount of \$975.00 was payable on the first of each month. The tenant paid a security deposit of \$390.00.

The tenant acknowledged in their application that they received the Notice on February 13, 2020. The Notice indicates that the tenant is required to vacate the rental unit on March 31, 2020.

The reason stated in the Notice was that the tenant has:

- Repeated late payment of rent

The landlord testified that the tenant continues to be late paying rent and continues to promise rent will be paid on time; however, the tenant has failed to pay rent on time even after they received the Notice.

The landlord testified that the rent has been paid as follows:

- April 2020 rent – no rent was paid;
- March 2020 rent – paid on March 2, 2020;
- February 2020 rent – part payment of \$900.00 was paid on February 11, 2020;
- January 2020 rent - \$470.00 was paid on January 8 and \$525.00 was paid on January 9;
- December 2019 rent – paid on December 10, 2019;
- November 2019 rent – paid on November 8, 2019;
- October 2019 – was paid on time;
- September 2019 rent – paid \$660.00 on September 3 and \$335.00 on September 2019.

The tenant writes in their application:

“BECAUSE I AM GETTING BACK ON FEET AND WORKING FULL TIME SO  
WILL NOT PAY RENT LATE ANY MORE...”

[Reproduced as written.]

The tenant's agent stated that they do not know why the tenant has been late paying the rent on so many occasions.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlord has provided sufficient evidence to show that the tenant has:

- Repeated late payment of rent

In this case, the tenant has acknowledged in their application that they have been late paying rent. The evidence of the landlord supports that the tenant has been late paying rent seven times from the rent history recorded above. Three late payments are sufficient enough to end the tenancy.

I find the Notice has been proven by the landlord and is valid and enforceable. Therefore, I dismiss the tenant's application to cancel the Notice. I find the tenancy legally ended on March 31, 2020, which is the date stated in the Notice. I find the tenant is overholding the premise.

As the tenancy legally ended on the effective date of the Notice, I find the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order must be served on the tenant and may be filed in the Supreme Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

**Ministerial Order M089 issued March 30, 2020, pursuant to the State of Emergency declared on March 18, 2020, prohibits the enforcement of certain Residential Tenancy Branch orders made during the state of emergency. Enforcement of other Residential Tenancy Branch orders may be affected by the suspension of regular court operations of the BC Supreme Court and Provincial Court.**

Conclusion

The tenant's application to cancel the Notice is dismissed. The landlord is granted an order of possession.

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 30, 2020

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Residential Tenancy Branch