



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL-4M, LRE

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenants filed under the Residential Tenancy Act (the “Act”), to cancel Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of the Rental Unit, (the “Notice”) issued January 28, 2020, and for an order to suspend or set conditions on the Landlords’ right to enter the rental unit. The matter was set for a conference call

The Landlord attended the conference call hearing; however, the Tenants did not. As the Tenants were the applicants in this hearing, I find that the Tenants have been duly notified of the Notice of Hearing in accordance with the *Act*.

The Landlord was affirmed to be truthful in their testimony and was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision

### Issues to be Decided

- Should the Notice issued January 28, 2020, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Are the Tenants entitled to suspend or set conditions on the Landlords’ right to enter the rental unit?

### Background and Evidence

The Landlord testified that they served the Tenants with the Notice to end tenancy on January 28, 2020, by posting it to the front door of the rental unit. The reason checked off by the Landlord within the Notice was as follows:

- *Preform renovations or repairs that are so extensive that the rental unit must be vacant.*

The Landlord testified that they want an order of possession to enforce the Notice to end tenancy in accordance with the Act.

During these proceedings, the Landlord acknowledged the current state of emergency that exists in the province and that they understood that any order of possession, that may be granted through these proceedings, could not be enforced until the Government of British Columbia has lifted the state of emergency.

### Analysis

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

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. Rule 7.3 of the Rules of Procedure stipulates that an Arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

**7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

**7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

**7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

This hearing was scheduled to commence at 11:00 a.m. on April 23, 2020. I called into the teleconference at 11:00 a.m., the line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Landlord. Therefore, as the Tenants did not attend the hearing by 9:41 a.m. and the Landlord appeared and was ready to proceed, I dismiss the Tenants' application without leave to reapply.

During the hearing the Landlord requested an order of possession to enforce their Notice to end tenancy. Section 55(1) of the *Act* states:

***Order of possession for the landlord***

***55 (1)*** *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

*(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*

*(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

I have reviewed the Notice to end the tenancy, and I find the Notice complies with section 52 of the *Act*.

Therefore, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*. I grant the Landlord an **Order of Possession** effective not later than **1:00 p.m. on May 31, 2020**. The Tenant must be served with this Order. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

I grant an **Order of Possession** to the Landlord effective not later than **1:00 p.m. on May 31, 2020**. The Tenants must be served with this Order. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 23, 2020

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Residential Tenancy Branch