



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING AND HEALTH SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### 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.

The tenant did not attend this hearing, which lasted approximately 13 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the residential coordinator and he had permission to represent the landlord company named in this application.

The landlord testified that he personally served the tenant with the landlord's application for dispute resolution hearing package on July 2, 2020. In accordance with section 89 of the *Act*, I find that the tenant was personally served with the landlord's application on July 2, 2020.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to correct the spelling of the tenant's surname. The landlord consented to this amendment during the hearing. I find no prejudice to the tenant in making this amendment.

The landlord testified that he personally served the tenant with the landlord's 1 Month Notice to End Tenancy for Cause, dated February 26, 2020 ("1 Month Notice") on the same date. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord's 1 Month Notice on February 26, 2020.

Issue to be Decided

Is the landlord entitled to an Order of Possession for cause?

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 are reproduced here. The important and relevant aspects of the landlord's claim and my findings are set out below.

The landlord testified regarding the following facts. The tenant moved in September 2019 but her Ministry payments did not begin until October 20, 2019. Both parties signed a written tenancy agreement and a copy was provided for this hearing. Monthly rent in the current amount of \$375.00 is payable on the first day of each month. A security deposit of \$187.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit.

The landlord confirmed that the 1 Month Notice indicates an effective move-out date of March 31, 2020 and was issued for the following reason:

- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.*

The landlord seeks an order of possession based on the 1 Month Notice.

The landlord testified that the tenant breached a material term of the tenancy agreement by having a dog in the rental unit without the landlord's permission. He stated that the dog constantly barks and is left alone in the rental unit, causing a disturbance and loss of quiet enjoyment to other tenants in the rental building. He confirmed that he has received complaints from other tenants. He claimed that he hears the dog barking from the second-floor office of the four-storey building, where the tenant is located on the fourth floor.

The landlord pointed to paragraph 18 of the parties' written tenancy agreement, which states that the tenant is required to obtain written permission to have a pet in her rental unit, which she did not. He said that the paragraph also states that the pet cannot be consistently disruptive or heard outside the rental unit, which the dog is. He claimed

that the other tenants in the rental building have a right to quiet respectful enjoyment at the rental property, which they fail to get with the tenant's barking dog.

The landlord said that warning letters were issued to the tenant, but she failed to get rid of her dog. He maintained that the landlord did not want to evict the tenant in December 2019, due to the cold weather. He stated that the landlord waited until February 2020, but the issues continued. He confirmed that the 1 Month Notice was issued but due to the covid-19 pandemic, an eviction could not be pursued during the state of emergency from March to June 2020.

The landlord provided copies of five letters that were issued to the tenant, from October 2019 to February 2020. The letters caution an end to the tenant's tenancy for having a loud barking dog at the rental unit without the landlord's permission. The first letter is from October 10, 2019.

The landlord testified that the tenant's boyfriend, who was released from jail, stays at the rental unit and has been "taken down by a swat team" for six hours at the rental unit, causing tear gas inhalation by other tenants.

### Analysis

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for a valid reason. I find that the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice was given by the landlord.

Paragraph 18 of the parties' written tenancy agreement indicates that the tenant may not have a pet unless written permission is obtained from the landlord. It also indicates that if the tenant has a pet, it cannot be consistently disruptive or heard outside the rental unit. Paragraphs A.1 of Schedule A to the parties' written tenancy agreement discusses material covenants. I find that paragraph 18 is material to this tenancy.

I find that the landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant did not have written permission to have her dog at the rental unit and that her dog caused consistently disruptive barking that could be heard by the landlord and other tenants at the rental property. The landlord received complaints from these other tenants. I find that this barking caused a loss of quiet enjoyment to other tenants at the rental property.

I find that the tenant had notice of the above paragraphs of her tenancy agreement when she signed it on October 20, 2019. I find that the tenant was given at least five written warning letters from the landlord from October 2019 to February 2020, about breaching her tenancy agreement, which could end her tenancy. These warnings began shortly after her tenancy commenced and an eviction proceeding was only delayed due to the covid-19 pandemic, where orders of possession for cause could not be pursued at the RTB from March to June 2020. I find that the tenant did not respond to these breach letters and allowed her dog to continue living at the rental unit with the disruptive barking.

The tenant has not made an application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the failure of the tenant to take this action within ten days led to the end of this tenancy on March 31, 2020, the effective date on the 1 Month Notice. In this case, this required the tenant and anyone on the premises to vacate the premises by March 31, 2020.

Accordingly, I grant the landlord's application to obtain an order of possession based on the 1 Month Notice. I find that the landlord is entitled to an Order of Possession, effective at 1:00 p.m. on July 31, 2020, pursuant to section 55 of the *Act*. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*.

### Conclusion

I grant an Order of Possession to the landlord **effective at 1:00 p.m. on July 31, 2020**. Should the tenant or any other occupants 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.

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: July 23, 2020