



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. The Tenants applied to cancel a One Month Notice to End Tenancy, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord (respondent) attended the hearing. However, the Tenants (applicants) did not. The hearing was by telephone conference and began promptly, as scheduled, at 9:30 am Pacific Time on August 27, 2020, as per the Notice of a Dispute Resolution Hearing provided to the Tenants. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the respondent Landlord who was ready to proceed.

After the ten minute waiting period, the Tenants' application was **dismissed in full, without leave to reapply**.

The Landlord testified that the Tenants continues to occupy the rental unit. The Landlord further testified that he is seeking to end the tenancy because the Tenants have an unreasonable number of occupants in the rental unit, and that they have breached a material term of the tenancy agreement, as laid out on the Notice. I accept this undisputed testimony along with the Notice to End Tenancy, provided into evidence.

Section 55 of the *Act* applies and 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.**

[My emphasis added]

Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a landlord must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I find that the Notice issued by the Landlord meets the requirements for form and content and the Landlord is entitled to an order of possession. The Landlord requested an order of possession earlier than the effective date of the Notice, which he had listed as September 30, 2020. I note the following portion of the *Act*:

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

***55 (3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.***

Although I have the discretion to issue an order of possession to the Landlord, prior to the effective date of the Notice, I decline to do so. I find the Landlord did not sufficiently demonstrate a compelling reason as to why the tenancy must end prior to the date he specified on the Notice. I will issue the order of possession based on the effective date of the Notice, September 30, 2020, as this is the date the Landlord chose at the time he served the Notice to the Tenants.

Conclusion

The Tenants' application has been dismissed in full, without leave to reapply as the Tenants failed to attend the hearing.

The Landlord is granted an order of possession effective **September 30, 2020**, at 1:00 p.m. This order must be served on the Tenants. If the Tenants fail 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.

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: August 27, 2020

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Residential Tenancy Branch