



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Elevate Performance Realty &  
Management and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **OLC, CNE-MT**

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- An order for the landlord to comply with the Act, Regulations and/or tenancy agreement pursuant to section 62;
- An order to cancel a one month notice to end tenancy for and end of employment pursuant to section 48; and
- A request for more time to cancel a Notice to End Tenancy pursuant to section 66.

The applicant/tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

### **Preliminary Issues**

The tenant misnamed the landlord in his Application for Dispute Resolution Proceedings. The landlord sought an amendment to the landlord's name and I ordered the Application for Dispute Resolution Proceedings be amended to reflect the full name of the landlord in accordance with section 64(3)(c) of the Act. The correct name of the landlord is reflected on the cover page of this decision.

At the commencement of the hearing, the landlord gave the following testimony under oath.

She was advised by another tenant in the building that the RCMP had attended the tenant's rental unit on September 22, 2020. The landlord spoke to a representative of the RCMP on September 25<sup>th</sup> and that representative advised the landlord that the tenant had passed away on September 22<sup>nd</sup>. The landlord had no other evidence to support this testimony.

As the landlord was unable to provide corroborative evidence to verify the tenant's passing, the hearing connection was left open until 11:10 a.m. to allow the tenant to call into the hearing.

At 11:11 a.m. the hearing concluded.

#### Analysis

The Residential Tenancy Branch Rules of Procedure state:

**7.3 Commencement of the hearing:** *The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The 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.*

**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.*

Accordingly, **in the absence of the presentation of any evidence or submissions from the tenant, I order the application be dismissed without leave to reapply.** I make this decision based on section 67 of the Act which states that the director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Section 55 states: 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 landlord's notice to end tenancy and I find it complies with form and content requirements in accordance with section 52 of the Act. I grant the landlord an order of possession effective 2 days after service on the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone 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: September 28, 2020

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Residential Tenancy Branch