



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNE

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order to cancel a notice to end tenancy for an end of employment.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. to enable the tenant to call into this 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. In accordance with Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure* ("Rules"), this hearing was conducted in the absence of the tenant.

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. The landlord testified he was never served with a copy of the tenant's Notice of Dispute Resolution Proceedings package. He went to the Residential Tenancy Branch office in Burnaby and was provided with a copy of the Notice of Dispute Resolution Proceedings on August 12<sup>th</sup>.

### Preliminary Issue

At the commencement of the hearing, the landlord testified that he believes the tenant has likely moved out of the rental unit, based on the following observations. He went to the rental unit last night and the unit appeared vacant except for debris and detritus left behind. He tried to open the door, however the door remained locked. He spoke to the tenants living in the lower unit of the rental property who confirmed that they saw the tenant moving his possessions out of the rental unit in a moving truck that day. Based on these observations, I am satisfied the tenant has vacated the property and I treat this as the tenant's acceptance of the notice to end tenancy.

The tenant did not attend this hearing, his own application to cancel the notice. The landlord, who was in attendance, testified that he believes the tenant had moved out of the rental unit as of August 31st. Based on this evidence from the landlord, I find that the tenant accepted the validity of the Notice to End Tenancy or otherwise agreed to terminate the tenancy and the tenant's application seeking to cancel the Notice to End Tenancy is dismissed on this basis. As such, it is not necessary for me to determine on the merits whether the Notice to End tenancy was valid and I make no findings with respect to its validity.

Section 55(1) of the Act 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 the landlord's notice to end tenancy complies with section 52. A copy of the notice to end tenancy was not provided as evidence, so the landlord gave oral testimony regarding its form and content. He testified the notice was dated and signed by himself, gives the address of the rental unit and provides an effective date of August 31, 2020. The ground for ending the tenancy was: tenant has assigned or sublet the rental unit/site without landlord's written consent. The details of cause were read into the record by the landlord. Based on the landlord's testimony, I am satisfied the notice complies with section 52 and I award the landlord an order of possession, effective 2 days after service upon 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 01, 2020

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Residential Tenancy Branch