



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC, RR

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on July 31, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order to cancel a One Month Notice for Cause;
- an order granting a rent reduction; and
- an order that the Landlord comply with the Act, tenancy agreement, or regulations.

The hearing was scheduled for 11:00 AM on September 8, 2020 as a teleconference hearing. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that Landlord and I were the only persons who had called into this teleconference.

### Preliminary Matters

Rule 7.3 of the Rules of Procedure states that if a party does not attend the hearing, the hearing may proceed without that party or the application may be dismissed with or without leave to reapply. As no one attended the hearing for the Tenant, I dismiss the Tenant's application without leave to reapply.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is

dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (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

1. Is the Landlord entitled to an Order of Possession in relation to the One Month Notice to End Tenancy dated July 27, 2020 (the "One Month Notice"), pursuant to Section 55 of the *Act*?

### Background and Evidence

The Landlord stated that the tenancy began on November 1, 2015. The Tenant is required to pay rent in the amount of \$760.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$380.00 and a pet damage deposit in the amount of \$380.00, both of which the Landlord continues to hold. The Landlord stated that the Tenant continues to occupy the rental unit.

The Landlord stated that the Tenant has been given several warnings regarding the number of vehicles he has parked in the parking lot. The Landlord stated that there are five parking spots, one for each occupant of the rental property, as well as one visitor parking spot. The Landlord stated that the Tenant has his vehicles parked in each of the spots. The Landlord stated that the Tenant is working on his vehicles which contradicts the addendum to the tenancy agreement. The Landlord stated that the Tenant's actions are impacting the other occupants as they have no where to park.

The Landlord stated that the Tenant also has garbage and car parts littered all over the parking area as well. The Landlord stated that the emergency access areas are blocked, therefore emergency personnel cannot access the rental property which is a safety risk. The Landlord stated that the Tenant has been given many chances to rectify the situation, however has not taken any action to do so.

For the above mentioned reasons, the Landlord stated she served the Tenant in person with the One Month Notice on July 27, 2020 with an effective vacancy date of August 31, 2020. The Landlord's reasons for ending the tenancy on the One Month Notice are;

*“The Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, and seriously jeopardized the health and safety or lawful right of another occupant or the Landlord.”*

*“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 stated that the Tenant has not complied with the Notice to End Tenancy, therefore, the Landlord is seeking an order of possession in relation to the One Month Notice.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

According to Section 47 (1) of the Act, a landlord may end a tenancy by giving notice to end the tenancy for cause. In the matter before me, the Landlord has the burden of proof to prove that there is sufficient reason to end the tenancy.

The Landlord served the Tenant in person with a One Month Notice to End Tenancy for Cause on July 27, 2020 with an effective vacancy date of August 31, 2020. Pursuant to Section 88 and 90 of the Act, the Tenant is deemed to have received the One Month Notice on July 27, 2020.

After receiving the One Month Notice, the Tenant made an Application to cancel the One Month Notice on July 31, 2020. As no one attended the hearing for the Tenant, their Application to cancel the One Month Notice is dismissed without leave to reapply.

Section 55 of the Act requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the Act.

I find that the One Month Notice complies with the requirements for form and content. I further find the Landlord has provided sufficient evidence to demonstrate that the

Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

I find that the Landlord is entitled to an order of possession effective at 1:00 PM on September 30, 2020, after service on the Tenant, pursuant to section 55 of the Act. This order should be served onto the Tenant as soon as possible.

### Conclusion

The Tenant did not appear at the time of the hearing; therefore, their Application is dismissed in its entirety without leave to reapply.

The Landlord is granted an order of possession, which will be effective at 1:00 PM on September 30, 2020 after service on the Tenant. If the Tenants fail to comply with the order of possession it may be filed in 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 08, 2020

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Residential Tenancy Branch