



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING CHARITABLE  
ASSOCIATION and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

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

- an order of possession for cause pursuant to section 55;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on September 17, 2020 and has submitted a copy of the Canada Post Customer Receipt and Tracking number as confirmation.

I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession?  
Is the landlord entitled to recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 1, 2009 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated June 16, 2009. The monthly rent was \$800.00 and a security deposit of \$250.00 was paid.

On July 22, 2020, the landlord served the tenant with the 1 Month Notice dated July 22, 2020 in person. The 1 Month Notice sets out an effective end of tenancy date of August 31, 2020 and that it was being given as:

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

The details of cause stated:

*The Tenant has not been maintaining reasonable cleanliness standards throughout the rental unit. The Landlord have given many opportunities to the Tenant to correct the breach but the Tenant did not comply. The Tenant breached clause 28 of the tenancy agreement and did not correct the breach.*

[reproduced as written]

The landlord stated that section 28 of the signed tenancy agreement states:

*Tenant's obligations: The Tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the Tenant has access. The Tenant must take the necessary steps to repair damage to the residential property caused by the actions or neglect of the Tenant or a person permitted on the residential property by that Tenant. The Tenant is not responsible for repairs for reasonable wear and tear to the residential property. If the Tenant does not comply with the above obligations within a reasonable time, the Landlord may discuss the matter with the Tenant and may seek a monetary order through arbitration under the Act for the cost of repairs, serve a Notice to End Tenancy, or both.*

[reproduced as written]

The landlord stated that a warning letter dated January 6, 2020 was served to the tenant in which the tenant was cautioned due to being "over cluttered and there is no access to the heating pipes". The letter also cautioned the tenant that:

- All doors interior and exterior open fully
- Radiators and heaters are unobstructed, with a minimum 12-inch clearance
- There is clear passage to access radiators and heaters

The tenant was warned to comply as a re-inspection was scheduled for January 28, 2020.

The landlord stated that despite this warning and others, the tenant has chosen to not comply.

The landlord stated that the tenant was served the 1 month notice dated July 22, 2020 and did not file an application in dispute of the notice. The landlord stated that the tenant continues to occupy the rental unit.

### Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served with the 1 month notice dated July 22, 2020. The landlord provided undisputed affirmed evidence that the tenant has not served the landlord with a notice of hearing to dispute the landlord's notice.

Pursuant to section 47 (4) the Act the tenant has not made an application for dispute within the allowed 10 day period after the tenant received the notice.

Section 47 (5) of the Act states that a tenant who receives this notice and does not make an application for dispute is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

The 1 month notice dated July 22, 2020 is upheld and the landlord is granted an order of possession. As the effective end of tenancy date has now passed, I find that the order of possession to be effective 2 days after it is served upon the tenant.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$100.00.

These orders must be served upon the tenant. Should the tenant fail to comply, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court and 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: October 30, 2020

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Residential Tenancy Branch