



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, OLC

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on September 9, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order cancelling a One Month Notice to End Tenancy for Cause (the "One Month Notice") dated August 31, 2020; and
- an order that the Landlord comply with the Act.

The hearing was scheduled for 11:00 AM on November 2, 2020 as a teleconference hearing. Only the Landlord M.F. 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 10 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. Are the Landlords entitled to an Order of Possession in relation to the One Month Notice to End Tenancy dated August 31, 2020 (the "One Month Notice"), pursuant to Section 55 of the *Act*?

### Background and Evidence

The Landlord stated that the tenancy began sometime before the Landlords purchased the rental property and signed a new tenancy agreement with the Tenant on January 11, 2020. The Landlord stated that the Tenant is required to pay rent and storage fees in the amount of \$665.00 to the Landlords on the first day of each month. The Landlord stated that the Tenant paid a security deposit in the amount of \$307.50 which the Landlords continue to hold. The Landlord stated that the Tenant continues to occupy the rental unit but has provided her notice to end the tenancy effective November 8, 2020. The Landlord stated that the Tenant has not yet paid rent for November 2020.

The Landlord stated that the Tenant has been provided with several verbal warnings from the Landlords regarding excessive noise, having her pet off leash, the Tenant's son playing in the parking lot, smoking in the rental unit, and for having an unreasonable amount of occupants residing in the rental unit. The Landlord stated that the Tenant has disregarded the multiple warnings provided and continues to breach the quiet enjoyment of the other occupants in the rental building.

For the above mentioned reasons, the Landlord stated that the Tenant was served in person with the One Month Notice on August 31, 2020 with an effective vacancy date of September 30, 2020. The Landlord is seeking an order of possession based on the One Month Notice in case the Tenant does not vacate the rental unit on November 8, 2020 as she has indicated.

### 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 August 31, 2020 with an effective vacancy date of September 30, 2020. Pursuant to Section 88 and 90 of the Act, the Tenant is deemed to have received the One Month Notice on August 31, 2020.

After receiving the One Month Notice, the Tenant made an Application to cancel the One Month Notice on September 9, 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 Landlords have provided sufficient evidence to demonstrate that the Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord.

As the effective date of the One Month Notice has passed and the Landlord stated that the Tenant has not yet paid rent for November 2020, I find that the Landlord is entitled to an order of possession effective 2 (two) days, 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 Landlords are granted an order of possession, which will be effective two (2) days after service on the Tenant. If the Tenant fails 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: November 02, 2020

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Residential Tenancy Branch