



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNC, OLC, LRE, PSF, LAT**

### Introduction

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

- An order to cancel a One Month Notice To End Tenancy for Cause pursuant to sections 47 and 55;
- An order for the landlord to comply with the Act, Regulations and/or tenancy agreement pursuant to section 62;
- An order to suspend a landlord's right to enter the rental unit pursuant to section 70;
- An order to provide services or facilities required by a tenancy agreement or law pursuant to section 62; and
- Authorization to change the locks to the rental unit pursuant to section 31.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 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.

The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed he received the tenant's Application for Dispute Resolution Proceedings Package and was prepared to deal with it.

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.

### Preliminary Issue

The tenant misspelled the landlord's surname in her Application for Dispute Resolution. The landlord clarified the spelling of his name at the commencement of the hearing and in accordance with section 64(3) of the Act, the landlord's name was corrected. The proper spelling of the landlord's surname is the same one as noted on the notice to end tenancy and is reflected on the cover page of this decision.

### Issue(s) to be Decided

Should the landlord's One Month Notice to End Tenancy for Cause be upheld or cancelled?

### Background and Evidence

The tenant did not attend to present any evidence regarding the merits of her application for me to consider.

A copy of the tenancy agreement was provided as evidence. The fixed one year tenancy began on March 1, 2020 with rent payable on or before the first day of each month in the amount of \$950.00.

The landlord gave the following undisputed testimony. Since the tenancy began, the tenant has been erratic and inconsistent in paying rent. The landlord had to issue multiple 10 Day Notices to End Tenancy for Unpaid Rent or Utilities upon the landlord, each notice was provided as evidence. The landlord testified that the tenant made her (late) rent payments only after being served with the notices to end tenancy.

The landlord testified that the tenant paid rent by e-transfer and provided the e-transfer advice notices as evidence. The landlord notes payments were to be made on or before the first of the month, but were made on the following days: September 4, October 2, October 3, November 2, and December 4, 2020.

On December 6, 2020, the landlord served the tenant with a One Month Notice to End Tenancy for Cause by posting a copy to the tenant's door. The landlord provided a proof of service document into evidence. The landlord also provided a copy of the Notice which states the reason for ending the tenancy is because the tenant is repeatedly late paying rent.

### Analysis

The tenant is deemed served with the notice to end tenancy three days after December 6<sup>th</sup>, the day it was posted to her door, or December 9<sup>th</sup>, 2020 in accordance with

sections 88 and 90 of the Act. The tenant filed an application to dispute the notice within the 10 day time frame required by section 47 of the Act, on December 18, 2020.

A landlord may end a tenancy pursuant to section 47(1)(b) if a tenant is repeatedly late paying rent. This notion is discussed in Residential Tenancy Branch Policy Guideline PG-38 [Repeated Late Payment of Rent].

**Three** late payments are the minimum number sufficient to justify a notice under these provisions.

*It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments. However, if the late payments are far apart an arbitrator may determine that, in the circumstances, the tenant cannot be said to be “repeatedly” late. (emphasis added)*

The landlord has provided undisputed testimony, corroborated by e-transfer statements and multiple notices to end tenancy to satisfy me that the tenant did not pay rent on or before the first day of the month, when it was due. I find that the tenant was late in paying rent for the months of September 2020, October 2020 and December 2020. As such, I uphold the landlord’s notice to end tenancy issued pursuant to section 47(1)(b).

Section 55 of the Act provides that:

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 [form and content of notice to end tenancy], and the director, during the dispute resolution proceeding, dismisses the tenant’s application or upholds the landlord’s notice.

I have examined the landlord’s notice and find that, with the exception of the effective (move-out) date, the notice complies with the form and content provisions of section 52 of the Act. Pursuant to section 53, the effective (move-out) date is deemed to be changed to January 31, 2021, the earliest date permitted under section 47 of the Act. As this date has passed, the landlord is entitled to an order of possession effective two days after service upon the tenant.

As this tenancy is ending, the remainder of the tenant’s application is dismissed without leave to reapply.

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 in the Supreme Court of British Columbia.

The remainder of the tenant's application is dismissed without leave to reapply. 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: March 18, 2021

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Residential Tenancy Branch