



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing was convened in response to an application made by the Landlord for:

1. An order of possession pursuant to section 55 of the *Residential Tenancy Act* (the “Act”); and
2. An Order for the recovery of the filing fee pursuant to section 72 of the Act.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and the Landlord’s evidence (the “Materials”) in person on January 11, 2021 in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### 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

The tenancy started on September 1, 2016. Rent of \$622.00 is payable on or before the first day of each month. At the outset of the tenancy the Landlord collected \$300.00 as a security deposit. On December 18, 2020 the Landlord served the Tenant with a one-month notice to end tenancy for cause. This notice to end tenancy contained an error on the effective date so on December 21, 2020 the Landlord served the Tenant with a replacement one-month notice to end tenancy for cause with an effective date of January 31, 2021. Both Notices contain the same reason with details: an unreasonable number of occupants. The Tenant did not dispute the first notice to end tenancy for

cause and did not dispute the replacement Notice. The Tenant has not moved out of the unit. The Tenant has paid rent for April 2021 and the Landlord asks for an order of possession to be effective April 30, 2021.

### Analysis

Section 47(5) of the Act provides that if a tenant who has received a notice to end tenancy for cause does not make an application for dispute resolution within 10 days after the date the tenant receives the notice, the tenant 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. Section 55(2)(b) of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Based on the Landlord's undisputed evidence that the Tenant received the Notice, did not dispute the Notice and has not moved out of the unit, I find that the Landlord is entitled to an order of possession as requested.

As the Landlord has been successful with its application I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and I order the Landlord to deduct this amount from the security deposit of \$300.00 plus zero interest in full satisfaction of this claim.

### Conclusion

I grant the Landlord an **Order of Possession** effective 1:00 p.m. on April 30, 2021. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

**I order** that the Landlord retain \$100.00 from the security **deposit** and interest of \$300.00 in full satisfaction of the claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 06, 2021

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Residential Tenancy Branch