



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Trinity holdings ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, OLC, FFT

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on February 10, 2021 (the "Application"). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause (the "Notice")
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement
- To recover the filing fee

The Agent appeared at the hearing for the Landlord. Nobody appeared at the hearing for the Tenant. I waited 10 minutes at the outset of the hearing for the Tenant to call into the hearing; however, the Tenant did not call into the hearing.

The Agent advised at the outset of the hearing that they may call a witness; however, the Agent confirmed at the end of the hearing that they did not need to call the witness.

I explained the hearing process to the Agent who did not have questions when asked. I told the Agent they were not allowed to record the hearing pursuant to the Rules of Procedure (the "Rules"). The Agent provided affirmed testimony.

The Tenant did not submit evidence for the hearing. The Landlord did submit evidence. I addressed service of the hearing package and Landlord's evidence.

The Agent confirmed receipt of the hearing package. The Agent testified that the Landlord's evidence was sent to the Tenant by email May 03, 2021.

I am not satisfied of service of the Landlord's evidence for the following reasons. The Landlord did not submit a copy of the email sent to the Tenant. The Landlord did not submit evidence that the Tenant provided an email address for service and that this was the email used. Even accepting the evidence was sent by email May 03, 2021, it would have been deemed received by the Tenant May 06, 2021 pursuant to section 44 of the *Residential Tenancy Regulation*. The timing of service does not comply with rule 3.15 of the Rules. Pursuant to rule 3.17 of the Rules, I have not considered the Landlord's evidence other than the Notice which I am satisfied the Tenant received as the Tenant disputed it.

The Agent was given an opportunity to present relevant evidence and make relevant submissions. I have considered the Notice and testimony of the Agent. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?

#### Background and Evidence

A written tenancy agreement was submitted as evidence. The tenancy started June 01, 2015 and was for a fixed term ending May 31, 2016. Rent is due on or before the first day of each month. The Agent testified that rent is \$860.00.

The Notice was submitted. It is addressed to the Tenant and relates to the rental unit. It is signed and dated February 04, 2021 by the Agent. It has an effective date of March 15, 2021. The grounds for the Notice are 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. The "Details of Events" outline a number of instances of the Tenant causing disturbances between March 12, 2020 and February 04, 2021.

The Agent testified that the Notice was sent to the rental unit by registered mail on February 04, 2021 with Tracking Number 1. I looked Tracking Number 1 up on the Canada Post website which shows the package was delivered February 08, 2021.

The Agent confirmed the Notice was issued due to noise complaints from neighbours of the Tenant as well as due to the Tenant bringing a dog into the rental unit despite not being allowed pets. The Agent confirmed the "Details of Events" are accurate. The Agent confirmed three of the Tenant's neighbours have complained about the Tenant.

The Agent sought an Order of Possession effective May 31, 2021.

### Analysis

Section 7.3 of the Rules states:

#### 7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The Tenant did not appear at the hearing and did not submit evidence for the hearing. Therefore, there is no evidence before me as to the basis for the Tenant's Application. Given this, the Tenant's Application is dismissed without leave to re-apply.

Section 55(1) of the *Act* states:

55 (1) 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

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Tenant's Application has been dismissed.

I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content.

The Notice was issued pursuant to section 47(1)(d)(i) of the *Act* which states:

47 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(c) the tenant or a person permitted on the residential property by the tenant has

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

Pursuant to rule 6.6 of the Rules, the Landlord has the onus to prove the grounds for the Notice. I have considered whether the Landlord had grounds to issue the Notice. I am satisfied based on the undisputed testimony of the Agent, as well as the “Details of Events”, that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. Therefore, I am satisfied the Landlord had grounds to issue the Notice and I uphold the Notice.

Given the above, the Landlord is entitled to an Order of Possession pursuant to section 55(1) of the *Act*. I issue the Landlord an Order of Possession effective at 1:00 p.m. on May 31, 2021.

#### Conclusion

The Landlord is issued an Order of Possession effective at 1:00 p.m. on May 31, 2021. The Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme 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 *Act*.

Dated: May 14, 2021

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Residential Tenancy Branch