



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** Tenant: CNC-MT, FFT  
Landlord: OPC, FFL

### **Introduction**

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The landlord requested:

- an Order of Possession for cause pursuant to section 55;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenant requested:

- more time to make an application to cancel the landlord’s 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 66; and
- authorization to recover their filing fee for this application from the landlord pursuant to section 72

LD spoke on behalf of the landlord in this hearing. While the landlord’s agents attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlord’s agents were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 the landlord’s agents and I were the only ones who had called into this teleconference.

The landlord’s agent gave sworn testimony that the tenant was served the hearing documents and evidence package by way of email on April 14, 2021. The landlord provided proof of service their evidentiary materials were sent on April 14, 2021 at 9:52 a.m. In accordance with sections 88, 89, and 90 of the *Act*, and sections 43 and 44 of

the *Residential Tenancy Regulation*, I find the tenant deemed served with the landlord's application and evidence on April 17, 2021, 3 days after the materials were sent. The landlord's agent confirmed receipt of the tenant's application and evidence package.

The landlord's agent testified that they had served the tenant with a 1 Month Notice on February 18, 2021, by way of posting the 1 Month Notice on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find the tenant deemed served with the 1 Month Notice on February 21, 2021, 3 days after posting.

Rule 7.3 of the Rules of Procedure provides as follows:

### **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

Accordingly, **in the absence of any submissions in this hearing from the tenant, I order the tenant's entire application dismissed without leave to reapply.**

### **Issues to be Decided**

Is the tenant entitled to an Order of Possession for cause?

Is the tenant entitled to recover the filing fee for their application?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applications before me and my findings around it are set out below.

This month-to-month tenancy began on March 15, 2015. Monthly rent is currently set at \$2,045.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$900.00 which they still hold.

The landlord issued the 1 Month Notice on the following grounds:

1. The tenant has allowed an unreasonable number of occupants in a rental unit;
2. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property; and

3. Tenant has assigned or sublet the rental unit/site/property/park without the landlord's written consent.

The landlord's agent testified that they had discovered that the tenant had rented out rooms within the townhouse without the landlord's knowledge or authorization. The landlord's agents gave notice to perform inspections of the rental unit, and discovered that at least one unauthorized occupant was renting a room for \$800.00 per month from the tenant, and that this occupant had been residing there for 1.5 years.

The landlord also expressed concern of the considerable damage to the exterior door the tenant had caused, and has refused to fix. The landlord's agent testified that the tenant had altered and damaged the door in order to install an unauthorized air conditioning unit as shown in the landlord's evidentiary materials.

### **Analysis**

**Section 55(1)** of the *Act* reads as follows:

- 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.

A copy of the 1 Month Notice was submitted for this hearing, and I find that the landlord's 1 Month Notice complies with section 52 of the *Act*, which states that the Notice must: be in writing and must: (a) be signed and dated by the landlord or tenant giving the notice, (b) give the address of the rental unit, (c) state the effective date of the notice, (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and (e) when given by a landlord, be in the approved form.

I have considered the grounds the landlord had provided for ending this tenancy, and although I am not satisfied that the landlord had demonstrated that the tenant or their guests have engaged in any illegal activity, or have sublet the rental unit as the term sublet is defined in the *Act*, I am satisfied that the landlord had provided sufficient evidence to

support that the tenant had allowed an unreasonable number of occupants into the rental unit. Furthermore, I find that the landlord had provided sufficient evidence to support that the tenant has attempted to conceal this fact, and has not remedied this despite being given the opportunity to do so. Accordingly, I find the 1 Month Notice to be valid.

Based on my decision to dismiss the tenant's application for dispute resolution and pursuant to section 55(1) of the *Act*, I find that this tenancy ended on the effective date of the 1 Month Notice, March 31, 2021. In this case, this required the tenant and anyone on the premises to vacate the premises by March 31, 2021. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession against the tenant, pursuant to section 55 of the *Act*.

The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlords may enforce this Order in the Supreme Court of British Columbia.

As the landlord was successful in their application, I allow the landlord to recover the filing fee for this application from the tenant. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of the monetary award.

### **Conclusion**

The tenant's entire application is dismissed without leave to reapply.

I find that the landlord is entitled to an Order of Possession.

I grant an Order of Possession to the landlord effective two **days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

As the landlord was successful in their application, I allow the landlord to recover the filing fee for this application from the tenant. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of the monetary award.

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: July 12, 2021