



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING + HEALTH  
SOCIETY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on May 7, 2021, wherein the Landlord requested an Order of Possession based on a 1 Month Notice to End Tenancy for Cause issued on March 26, 2021 (although signed March 31, 2021 in error).

The hearing of the Landlord's Application was scheduled for 9:30 a.m. on September 16, 2021. Only the Landlord's agents called into the hearing: the Residential Coordinator, T.H., and the Residential Supervisor, J.K. called into the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 9:41 a.m. Additionally, 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's agents and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. T.H. testified that she personally served the Tenant with the Notice of Hearing and the Application on May 19, 2021. J.K. testified that he witnessed T.H. serve the Tenant at this time. I accept T.H. and J.K.'s testimony in this respect and find the Tenant was duly served as of May 19, 2021 and I proceeded with the hearing in their absence.

The Landlord's agents were cautioned that recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. They both confirmed

their understanding of this requirement and further confirmed they were not making recordings of the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's Agent's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord's Agents and relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession based on the Notice?
2. Should the Landlord recover the filing fee?

### Background and Evidence

T.H. testified that this tenancy began May 1, 2019. Monthly rent is \$375.00 and the Tenant paid a \$187.50 security deposit.

T.H. further testified that the Landlord issued the Notice on March 26, 2021. T.H. confirmed that it was erroneously dated March 31, 2021 as she believed she needed to date it the last day of the month. She confirmed that it was signed and served on the Tenant on March 26, 2021.

T.H. stated that the reason the Landlord sought to end the tenancy was because the Tenant broke into another resident's room; this was also clearly detailed on the Notice in the details of cause section.

The Landlord requested an end to tenancy for the following reasons set forth on the Notice as well as provided for in section 47 of the *Act*.

- the Tenant or a person permitted on the residential property by the Tenant has
  - significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
  - seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
  - put the landlord's property at significant risk;

- the Tenant has engaged in illegal activity that has caused or is likely to
  - damage to the landlord's property,
  - has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
  - jeopardize or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

T.H. testified that the Tenant failed to dispute the Notice within 10 days as required by section 47(4) and (5) of the *Act*.

### Analysis

The Landlord seeks an Order of Possession based on sections 47(4) and (5) of the *Act* which read as follows:

47 (4)A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(5)If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a)is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b)must vacate the rental unit by that date.

I accept T.H.'s testimony that the Tenant was served the Notice on March 26, 2021. I further accept her testimony that the Tenant failed to make an Application to dispute the Notice within 10 days as required by section 47(4). By operation of section 47(5) the Tenant is conclusively presumed to accept the end of the tenancy and must vacate the rental unit.

I also accept the Landlord's evidence that the Tenant broke into another resident's room and in doing so, significantly interfered with and unreasonably disturbed another occupant such that the Landlord has proven cause to end this tenancy.

The Landlord is granted an Order of Possession pursuant to section 55 of the *Act*. This Order must be served on the Tenant and may be filed and enforced in the B.C.

Supreme Court. The Tenant is reminded that any costs incurred by the Landlord to enforce the Order of Possession may be recoverable from the Tenant.

Having been successful in this Application the Landlord is also entitled to recover the \$100.00 filing fee pursuant to section 72 of the *Act*. I authorize the Landlord to retain \$100.00 of the Tenant's \$187.50 security deposit as recovery of this sum.

### Conclusion

The Landlord's request for an Order of Possession based on the undisputed Notice is granted. The Landlord is also entitled to recovery the \$100.00 filing fee and may retain this amount from the Tenant's security deposit pursuant to sections 38 and 72 of the *Act*.

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: September 17, 2021

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Residential Tenancy Branch