



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FFL

### Introduction

The Landlord applies for an order for possession pursuant to s. 55 of the *Residential Tenancy Act* (the “*Act*”) after issuing a One-Month Notice to End Tenancy signed April 26, 2021. The Landlord also seeks return of their filing fee pursuant to s. 72 of the *Act*.

J.L. appeared as agent for the Landlord. The Tenant did not appear, nor did anyone appear on the Tenant’s behalf. Pursuant to Rules 7.1 and 7.3 of the Rules of Procedure, the hearing was conducted in the Tenant’s absence.

The Landlord affirmed to tell the truth during the hearing. The parties were given a full opportunity to be heard, to present sworn testimony, question the other party and to make submissions. I advised the Landlord of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord confirmed that they were not recording the hearing.

The Landlord indicated that the One-Month Notice to End Tenancy for cause was posted on the Tenant’s door on April 26, 2021. I find that the Notice to End Tenancy was served in accordance with s. 88 of the *Act* and deem it to have been served on the Tenant on April 29, 2021 pursuant to s. 90 of the *Act*.

The Landlord advised that their application and evidence were sent via registered mail to the Tenant’s address on June 2, 2021 and the Landlord submitted a tracking number as evidence. I find that the Notice of Dispute Resolution and evidence were served in accordance with s. 89 of the *Act* and deem them to have been served on June 7, 2021 pursuant to s. 90 of the *Act*.

Issue(s) to be Decided

- 1) Whether the Landlord should be granted an order for possession after issuing the Notice to End Tenancy signed April 26, 2021?
- 2) Should the Landlord's filing fee be returned?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The Landlord confirmed that the tenancy began on June 24, 2011 and that rent for the rental unit is currently set at \$827.80. The Landlord indicated they hold a security deposit of \$360.00 in trust for the Tenant. The Landlord advised that the Tenant continues to reside in the rental unit.

The Notice to End Tenancy submitted into evidence was signed on April 26, 2021 and is in the form RTB-33 provided by the Residential Tenancy Branch. The notice set out that the tenancy was to end due to the Tenant significantly interfering with or unreasonably disturbing other occupants of the residential property. In particular, the Notice to End Tenancy describes the following disturbances:

April 10, 2021 – The Tenant was screaming, swearing, and pounding/slamming doors within his unit.

April 12, 2021 – The Tenant was screaming, swearing, slamming doors, and arguing with a visitor in his unit. A police file was opened because of this incident.

April 24, 2021 – the Tenant was heard throwing things in his unit, screaming, slamming doors, and arguing with a visitor in his unit. The police were contacted again following this incident.

Warning letters were issued to the Tenant by the Landlord on these occasions.

J.L. advised that the Tenant has not served an application to cancel the Notice to End Tenancy on the Landlord and that she was unaware of the Tenant filing an application

with the Residential Tenancy Branch with respect to the Notice to End Tenancy at issue in the present application.

### Analysis

The Landlord applies for an order for possession and return of their filing fee.

Pursuant to s. 47(d)(i) of the *Act*, a Landlord may end a tenancy if the tenant or a person permitted to be on the residential property by the tenant significantly interferes with or unreasonably disturbs another occupant or the landlord of the residential property.

Upon review of the Notice to End Tenancy submitted into evidence by the Landlord, I find that it complies with the formal requirements set out under s. 52 of the *Act*, namely it is signed and dated by the Landlord, gives the address of the rental unit, states the correct effective date, states the grounds for the notice, and is in the approved form. The Notice to End Tenancy is valid.

When a tenant receives a One-Month Notice to End Tenancy issued under s. 47 they must, within 10-days, dispute the notice with the Residential Tenancy Branch. Indeed, at the top of the Notice to End Tenancy it states the following:

You have the right to dispute this Notice **within 10 days** of receiving it, by filing an Application for Dispute Resolution with the Residential Tenancy Branch online, in person at any Service BC Office or by going to the Residential Tenancy Branch Office at #400 - 5021 Kingsway in Burnaby. If you do not apply within the required time limit, you are presumed to accept that the tenancy is ending and must move out of the rental unit by the effective date of this Notice.

In this case, the Tenant failed to file a dispute at all. Given this, s. 47(5) is engaged and I find that the Tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit on the effective date. In this case, the effective date is May 31, 2021.

Since the Tenant continues to reside in the rental unit, the Landlord is entitled to an order for possession.

Conclusion

The Tenant shall provide vacant possession of the rental unit to the Landlord no later than **two-days** after being served with the order by the Landlord.

As the Landlord was successful on their application, they are entitled to a return of the filing fee. I order the Landlord to withhold \$100.00 from the Tenant's security deposit in full satisfaction for a return of this fee.

If the Tenant does not comply with the order for possession, it may be filed with the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: September 23, 2021

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Residential Tenancy Branch