



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE IN THE COMOX  
VALLEY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, MT, CNR, OLC, LRE, FFT

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On July 27, 2021, the Tenants applied for more time to dispute a notice to end tenancy and to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Tenant also applied to suspend or restrict the Landlords right of entry and for an order that the Landlord comply with the Act.

On October 1, 2021, the Landlord applied for an order of possession for the rental unit based on the issuance of a One Month Notice to End Tenancy for Cause that was not disputed by the Tenant.

This matter was set for hearing by telephone conference call at 11:00 am on this date. The Landlords agents (“the Landlord”) attended the hearing; however, the Tenant did not. The line remained open while the phone system was monitored for fourteen minutes and the Tenant did not call into the hearing during this time. Therefore, as the Applicant did not attend the hearing by 11:14 to pursue his application, I dismiss the Tenants application without leave to reapply.

The hearing proceeded based on the Landlords application.

The Landlord testified that they served their Notice of Dispute Resolution Proceeding to the Tenant by attending the rental unit on October 8, 2021 and leaving the Notice with an adult person living in the unit. The Landlords also testified that they sent another copy of the Notice of Dispute Resolution Proceeding to the Tenant at the dispute address using registered mail sent on October 8, 2021.

I find that the Tenant was served with notice of the hearing in accordance with sections 89 and 90 of the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue to be Decided

- Is the Landlord entitled to an order of possession for the rental unit?

#### Background and Evidence

The Landlord testified that the tenancy began on April 1, 2021 on a month-to-month basis. Rent in the amount of \$2,300.00 is due to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit of \$1,250.00.

#### One Month Notice

The Landlord testified that there were numerous concerns involving the Tenant that caused them to serve the One Month Notice to End Tenancy for Cause dated June 25, 2021.

The Landlord testified that the Tenants were served with a One Month Notice to End Tenancy dated June 25, 2021. The Landlord testified that the One Month Notice was posted to the Tenant's door at 2:40 pm on June 25, 2021. The reasons cited for ending the tenancy within the One Month Notice are:

- *Tenant or a person permitted on the property by the Tenant has:*
  - *Significantly interfered with or unreasonably disturbed another occupant or the Landlord*
  - *Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so*
- *Tenant has assigned or sublet the rental unit/ site without the Landlord's written consent*
- *Tenant knowingly gave false information to prospective Tenant or purchaser of the rental unit/site property/ park*
- *Residential Tenancy Act only: security or pet damage deposit was not paid within 30 days as required by the tenancy agreement*

The One Month Notice provides information for Tenants who receive the Notice. The Notice provides information on the rights of a Tenant. At the top of the form the Notice provides: "You may be EVICTED if you do not respond to this Notice." The Notice provides that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the effective date of the Notice. If the Tenant does not file an Application, move, or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

There is no evidence before me that the Tenant disputed the One Month Notice and he did not attend the hearing to respond to the Landlord's application.

The Landlord testified that the tenancy agreement only lists the Tenant; however, the Tenant has sublet or permitted unauthorized people to live in the rental unit. The Landlord confirmed that they have no tenancy agreement with the unauthorized persons on the unit.

The Landlord testified that the tenancy agreement did not permit pets and the Tenant has introduced a dog into the unit.

The Landlord testified that the Tenant has failed to open a hydro account in his name as required under the tenancy agreement.

The Landlord stated that there is a lot of traffic coming from the rental property and that there has been damage to the back yard due to someone digging up the yard.

The Landlord testified that they addressed these issues with the Tenant, and the Tenant failed to comply or deal with the issues, so the One Month Notice was issued.

The Landlord seeks an order of possession for the rental unit, based on an undisputed One Month Notice to End Tenancy for Cause dated June 25, 2021.

### Analysis

#### One Month Notice

Based on the evidence and testimony of the Landlord, and on a balance of probabilities, I make the following findings:

Section 55 of the Act provides that a Landlord may request an order of possession of a rental unit when a notice to end tenancy is given by a Landlord and the Tenant has not disputed the Notice and the time for making that application has expired.

The Landlord served the Tenants with a One Month Notice to End Tenancy for Cause dated June 25, 2021 and the Tenant failed to dispute the Notice, and the time frame for disputing it has expired. I find that the Landlord had sufficient reason to issue the One Month Notice.

I find that the Tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to keep \$100.00 from the security deposit in full satisfaction of the filing fee.

### Conclusion

The Tenant received the One Month Notice did not file to dispute the Notice or move out of the rental unit by the effective date. The Tenant is presumed under the legislation to have accepted that the tenancy ended on July 31, 2021, the effective date of the Notice.

The Landlord is granted an order of possession effective two (2) days, after service on the Tenant.

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: November 30, 2021