



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes CNC  
OPC

### Introduction

This hearing dealt with the twice adjourned cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenants’ application for Dispute Resolution was made on July 26, 2021. The Tenants applied to cancel One Month Notice to End Tenancy for Cause (the “Notice”) issued on July 15, 2021.

The Landlord’s application for Dispute Resolution was made on August 4, 2021. The Landlord applied to enforce a One Month Notice to End Tenancy for Cause (the “Notice”) issued on July 15, 2021.

The Landlord was represented by two Agents who attended the hearing; each Agent was affirmed to be truthful in their testimony. The Tenants did not attend the hearing, as the Tenants are also an applicant in this hearing; I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the Act. The Landlord was provided with the opportunity to present his evidence orally and in written and documentary form and to make submissions at the hearing.

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.

### Issues to be Decided

- Should the Notice issued on July 15, 2021, be cancelled pursuant to section 47 of the Act?
- Is the Landlord entitled to an order of possession pursuant to section 55 of the Act?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlord testified that they personally served the Notice to end tenancy to the Tenants on July 15, 2021. The Tenants submitted a copy of the Notice into documentary evidence.

The reason for the Notice was checked off as follows:

- *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 and safety or lawful right of another occupant or the landlord*
  - *Put the landlord's property at significant risk*
- *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.*
- *Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the Landlord.*

The Notice states the Tenants must move out of the rental unit by August 31, 2021. The Notice informed the Tenants of the right to dispute the Notice within ten days after receiving it. The Notice also informed the Tenants that if an application to dispute the Notice is not filed within ten days, the Tenants are presumed to accept the Notice and must move out of the rental unit on the date set out on page one of the Notice.

## Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the testimony of the Landlord that they served the Tenants with the Notice to end on July 15, 2021, by personally serving the Notice to the Tenants. Section 47 of the *Act* requires that upon receipt of a Notice to End Tenancy for Cause, a tenant must, within 10 days, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not do this, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice under section 49(9) of the *Act*.

### ***Landlord's notice: cause***

***47 (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 find that the Tenants received the Notice the same day it was served, July 15, 2021, and that the Tenants filed to dispute the Notice on July 26, 2021.

The Tenants application to dispute the Notice was set for hearing by a telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored, and the only participant who called into the hearing was the Landlord.

Rules 7.1, 7.3 and 7.4 of the Rules of Procedure provide as follows:

### **7.1 Commencement of the dispute resolution hearing**

The dispute resolution hearing will commence at the scheduled time unless otherwise set by the arbitrator.

### **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.

#### **7.4 Evidence must be presented**

Evidence must be presented by the party who submitted it, or by the party's agent. If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Therefore, as the Tenants did not attend the hearing, I dismiss the Tenants' application without leave to reapply.

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

#### ***Order of possession for the landlord***

**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.*

I have reviewed the Notice, and I find that this Notice complies with section 52 of the *Act*.

As I have dismissed the Tenants' application to dispute the Notice, I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the *Act*.

Accordingly, I grant the Landlord an order of possession effective not later than 2 days after service of this Order upon the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

The Tenants are cautioned that the costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenants' Application to cancel the Notice, issued July 15, 2020, is dismissed. I find the Notice is valid and complies with the Act.

I grant an **Order of Possession** to the Landlord, effective not later than **2 days** after service of this Order upon the Tenants. The Tenants must be served with this Order. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 25, 2021

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Residential Tenancy Branch