



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Welbec  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, OLC, LRE, PSF

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Tenant applied for:

- an order to cancel a One Month Notice to End Tenancy For Cause, dated October 18, 2021 (the One Month Notice);
- an order for the Landlord to comply with the Act, regulation, or tenancy agreement;
- an order to suspend or set conditions on the Landlord's right to enter the rental unit;
- an order for the Landlord to provide services or facilities required by the tenancy agreement or law; and
- an order for the return of their personal property.

The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified they served their Notice of Dispute Resolution Proceeding (NDRP) and evidence on the Landlord in person on October 30, 2021. The Landlord confirmed they received the documents. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified they served their responsive evidence on the Tenant by registered mail on November 19, 2021. The Tenant confirmed they received the

documents. I find the Landlord served the Tenant in accordance with section 89 of the Act.

### Preliminary Matter

The RTB's Rules of Procedure 2.3 states:

**2.3 Related issues** Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As they are not related to the central issue of whether the tenancy will continue, I dismissed the Tenant's application for an order for the Landlord to comply with the Act, the regulation, or the tenancy agreement; an order to suspend or set conditions on the Landlord's right to enter the rental unit; an order for the Landlord to provide services or facilities required by the tenancy agreement or law; and an order for the return of the Tenant's personal property.

### Issues to be Decided

Is the Tenant entitled to an order to cancel the One Month Notice?  
If not, is the Landlord entitled to an order of possession?

### Background and Evidence

The parties agreed on the following particulars regarding the Tenancy. It began on June 1, 2019; rent is \$700.00, due on the first of the month; and the Tenant paid a security deposit of \$350.00, which the Landlord still holds.

The Tenant testified they also paid a \$350.00 pet damage deposit. The Landlord testified that they took over from a previous landlord, and stated they cannot find a pet deposit in the ledger, but that they are also not saying the pet deposit was not paid by the Tenant.

The Landlord testified they served the One Month Notice on the Tenant by posting it to the door on October 18, 2021. The Tenant testified they received the Notice the same day. A copy of the One Month Notice was submitted as evidence by both parties.

The One Month Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because:

- the 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;
  - put the landlord's property at significant risk; and
- the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord testified that on August 23, 2021, they received a call from another tenant stating that the Tenant's apartment was flooding. The Landlord testified that the maintenance person came, and that wet footprints could be seen in the rental unit and into the common area, due to water on the floor. The Landlord testified that when they reached the Tenant's rental unit, the Tenant and their partner were standing in a "significant" amount of water. The Landlord testified they were concerned about safety, as they did not know if the power had been turned off. The Landlord testified that the former building manager, who lives in the building, shut the main water off.

The Landlord testified that the flood was the result of the Tenant having pulled out the bottom element of the hot water heater. The Landlord testified that the Tenant had not told the Landlord the appliance had not been working.

The Tenant testified that the hot water heater in their rental unit was 16 years old, and that the bottom element in it stopped functioning. The Tenant testified that they contacted the Landlord about the faulty water heater, but the Landlord did not respond until seven hours later. The Tenant testified that they tried to fix the hot water heater themselves.

The Landlord's evidence includes a letter to the Tenant, dated October 7, 2021. In the letter, the Landlord wrote that on August 21, 2021, they missed a call from the Tenant's partner. The Landlord was told by another tenant that the Tenant and their partner had been "playing around with the hot water tank," so contacted the Tenant's partner to inquire what was going on. The Landlord wrote that the Tenant's partner did not respond. The letter states that on August 23, 2021, the Landlord got a frantic call from another tenant stating that the Tenant's apartment was flooding. The Landlord wrote that they and their maintenance person found the Tenant and their partner standing in

an inch of water, and that wet footprints could be seen in the carpet outside the Tenant's door. The letter stated that the water had to be turned off at its source. The Landlord wrote that their maintenance person was not able to fix the hot water heater, and that a plumber was needed, who installed a new hot water heater. The Landlord's letter stated that the actions of the Tenant put the Landlord's property in jeopardy.

The Landlord submitted as evidence an invoice from the plumber, dated September 29, 2021, showing that the expenses related to replacing the hot water heater amounted to \$1,575.00.

The Landlord also provided testimony that the Tenant is smoking and burning candles in an enclosed area they have created below a wooden balcony, has four pets not approved by the Landlord, and has not removed surveillance cameras after being asked by the Landlord. However, considering my findings below, I find it has not been necessary to consider these issues in greater detail.

### Analysis

Based on the Landlord's testimony, I accept that the One Month Notice was served on the Tenant by posting it to the door on October 18, 2021, in accordance with section 88 of the Act. I accept the Tenant's testimony that they received the One Month Notice the same day. I find the One Month Notice meets the form and content requirements of section 52 of the Act.

Section 47 of the Act states that a tenant receiving a One Month Notice may dispute it within 10 days after the date the tenant receives the Notice. As the Tenant received the Notice on October 18, 2021 and applied to dispute the Notice on October 28, 2021, I find the Tenant met the 10-day deadline.

Section 47 of the Act states that a landlord may end a tenancy if a tenant has put the landlord's property at significant risk.

I accept the Landlord's and Tenant's affirmed testimony that the Tenant attempted to fix the hot water heater in the rental unit themselves. I accept the Landlord's testimony that on August 23, 2021 a flood occurred in the Tenant's unit, resulting from the Tenant's efforts to fix the hot water heater. I accept the Landlord's testimony and documentary evidence that the degree of flooding required the water in the apartment building to be turned off.

Having heard from the parties, and reviewing the documentary evidence, I find that by the Tenant taking in upon themselves to repair the hot water heater, the Tenant caused damage to the hot water heater, resulting in water flooding their unit and the area outside their unit. I find that the actions of the Tenant put the Landlord's property at significant risk.

Therefore, I find the Landlord is entitled to an order of possession.

### Conclusion

The Tenant's application is dismissed. The One Month Notice is upheld.

The Landlord is granted an order of possession which will be effective two days after it is received by the Tenant. The order of possession must be served on the Tenant. The order of possession 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: December 20, 2021

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Residential Tenancy Branch