



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC FFL

### Introduction

The landlord seeks an order of possession based on an undisputed One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to section 55(2)(b) of the *Residential Tenancy Act* (“Act”). In addition, they applied to recover the cost of the filing fee.

### Preliminary Issue: Service

The landlord’s agent attended the hearing, but the respondent tenant did not. In such cases where a respondent does not attend, I must be satisfied that the respondent was properly served with the Notice of Dispute Resolution Proceeding. Such service must comply with the Act and the Residential Tenancy Branch’s *Rules of Procedure*, and there must be evidence to support a finding that such service in fact occurred.

The landlord’s agent (hereafter the “landlord”) testified under oath that the tenant was served with the Notice of Dispute Resolution Proceeding package both by Canada Post registered mail and in-person on December 5, 2021. A copy of the registered mail tracking receipt and number were in evidence. In addition, the landlord testified that she reminded the tenant of the hearing Saturday by sending him a text “just last Saturday.”

Given the evidence before me, it is my finding that the tenant was appropriately served with the Notice of Dispute Resolution Proceeding and documentary evidence necessary for him to participate fully in these proceedings.

### Issues

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to recover the cost of the filing fee?

### Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The tenancy began on December 1, 2020 and monthly rent is \$1,500.00. The tenant did not pay any required security or pet damage deposit, and there is no written tenancy agreement in evidence.

The landlord testified under oath that they served the Notice on November 6, 2021 in person on the tenant. A copy of all three pages of the Notice were in evidence, along with a proof of service document. To the landlord's knowledge the tenant never made an application to dispute the Notice.

### Analysis

Section 55(2)(b) of the Act states that a landlord may request an order of possession of a rental unit when

a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

In this case, the landlord gave the tenant the Notice, the tenant never disputed the Notice by making an application for dispute resolution, and the time for making any such application has long since expired. Having carefully reviewed all pages of the Notice I find that the Notice complies in form and content pursuant to section 52 of the Act.

In summary, taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving her application for an order of possession pursuant to section 55(2)(b) of the Act.

A copy of this order of possession is issued in conjunction with this decision, to the landlord. As explained to the landlord's agent during the hearing, the order of possession must be served on the tenant. (Service may be undertaken by any of the permitted methods listed in [section 88](#) of the Act.)

If the tenant refuses to comply with the order of possession, then the landlord may file and enforce the order in the Supreme Court of British Columbia.

Section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the landlord succeeded in her application, I grant her \$100.00 in compensation to cover the cost of the filing fee. Pursuant to section 72 of the Act the tenant is hereby ordered to pay the landlord \$100.00. A monetary order is also issued in conjunction with this decision to the landlord, should enforcement of the monetary order be necessary.

### Conclusion

The landlord's application is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: January 18, 2022

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Residential Tenancy Branch