



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FFT

### Introduction

On August 22, 2021, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. The Landlord attended the hearing as well, with K.L. attending as an agent for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that the Landlord was served the Notice of Hearing package by registered mail on or around September 9, 2021 and the Landlord confirmed receipt of this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was duly served the Notice of Hearing package.

The Tenant advised that she served her evidence to the Landlord in the Notice of Hearing package; however, she did not serve the pictures that were submitted as evidence. The Landlord confirmed that he received the Tenant’s documentary evidence

in the Notice of Hearing package, but he did not receive any pictures. As the Tenant's documentary evidence appears to have been served to the Landlord pursuant to the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted all of the Tenant's documentary evidence and will consider it when rendering this Decision. However, as the Tenant did not serve her pictures to the Landlord, I have excluded this evidence and will not consider it when rendering this Decision.

The Landlord advised that the Tenant was served his evidence by registered mail on August 20 and December 10, 2021, and the Tenant confirmed receiving these packages. As the Landlord's documentary evidence appears to have been served to the Tenant pursuant to the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted all of the Landlord's documentary evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the Landlord's One Month Notice to End Tenancy for Cause cancelled?
- If the Tenant is unsuccessful in cancelling this Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony

of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on June 1, 2000, that rent was established \$975.00 per month, and that it was due on the first day of each month. A security deposit of \$312.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

The Landlord advised that the Notice was served to the Tenant by being posted to the Tenant's door on August 15, 2021. The reasons the Landlord served the Notice are because the "Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk" and because of a "Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so." The Notice indicated that the effective end date of the tenancy was September 20, 2021.

He advised that the Notice was served because there was an issue with bedbugs in the building and an inspection of the rental unit was conducted by K.L. and a pest control company. A notice dated June 28, 2021 was given to the Tenant informing her that the condition of the rental unit was not conducive to effective treatment of bedbugs due to the amount of clutter. This notice informed her that the rental unit needed to be cleaned up for a follow-up inspection on July 8, 2021. K.L. stated that the Tenant was provided with a document entitled "Post Treatment Bedbug Management Recommendations" which outlined the necessary steps that the Tenant was required to take in order to facilitate effective bedbug treatment.

Two subsequent inspections were completed and two further notices, dated July 9 and 19, 2021 were given instructing the Tenant to clean her rental unit so that rental unit could be properly treated for bedbugs. In the July 19, 2021 warning letter, the Tenant was given until August 5, 2021 to correct these issues; however, as the Tenant did not comply, the Notice was served.

The Landlord reiterated that the bedbug treatment could not be completed due to the amount of clutter in the rental unit, and he referenced the pictures submitted as documentary evidence to support this position. K.L. advised that on the July 15, 2021 inspection, the pest control company determined that the amount of clutter in the rental unit was deemed a "9" and that the Tenant's open boxes were required to be bagged. K.L. reiterated that the Tenant did not comply with the instructions provided to prepare

the rental unit for bedbug treatment and that it would have been futile to treat the rental unit for bedbugs in that state as there was too much open property for the bedbugs to hide in.

The Tenant advised that she “doesn’t think [she] has done anything wrong” as she cleared a perimeter around the rental unit for the pest control company to complete their treatment. She stated that an initial spraying was conducted on June 28, 2021 and she observed fewer bedbugs after that. She has not seen any bedbugs currently. She confirmed that she received the warning letters from the Landlord, but she claimed that she never received a letter from the pest control company. However, she later stated that she did receive a letter from this company which instructed her how to prepare the rental unit for bedbug treatment.

She acknowledged that the Landlord informed her that she was required to get rid of 90% of her property but she stated that she was “not clear what they wanted.” She stated that she did her best to comply with what was asked of her and she put as much property into bags. However, she then stated that after each inspection, she would clear the perimeter and “put some stuff in bags.”

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 52 of the *Act* requires that any notice to end tenancy issued by the Landlord must be signed and dated by the Landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

I have reviewed the Landlord’s One Month Notice to End Tenancy for Cause to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. I am satisfied that the Notice meets all of the requirements of Section 52.

I find it important to note that the Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the

Act reads in part as follows:

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

**47** (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

*(d) the tenant or a person permitted on the residential property by the tenant has*

*(iii) put the landlord's property at significant risk;*

*(h) the tenant*

*(i) has failed to comply with a material term, and*

*(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;*

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. Given the contradictory testimony and positions of the parties, I must also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

With respect to the reason that the Landlord served the Notice on the Tenant for putting the property at significant risk, I find it important to note that the consistent and undisputed evidence is that there were bedbugs in the building and the rental unit. Furthermore, I am satisfied that the Landlord warned the Tenant multiple times to clean up the rental unit to prepare it properly for bedbug treatment and that the Tenant was aware of what was required to comply, as she acknowledged receiving a letter specifically outlining what steps were required of her to ready the rental unit for bedbug treatment. Given that the Tenant was vague in the steps she took to comply with this letter, and as she acknowledged that she primarily just cleared a perimeter of her property around the rental unit, I am satisfied that she did not take steps to adequately prepare the rental unit for successful treatment of bedbugs, despite being afforded multiple opportunities to do so. As this is more consistent with the Landlord's evidence, I find that I prefer the Landlord's evidence on the whole.

As the Tenant essentially hindered the Landlord's ability to successfully treat the rental unit for bedbugs, I am satisfied that the Tenant's actions justify the reason of putting the Landlord's property at significant risk.

As the Landlord's Notice is valid, and as I am satisfied that the Notice was served in accordance with Section 88 of the *Act*, I uphold the Notice and find that the Landlord is entitled to an Order of Possession under Sections 47 and 55 of the *Act*.

The effective end date of the tenancy of September 20, 2021 (which is incorrect) on the One Month Notice to End Tenancy for Cause is changed to the nearest date that complies with the law. Since that effective date has passed, I grant the Order of Possession effective on **January 31, 2022 at 1:00 PM** after service of this Order on the Tenant.

As the Tenant was not successful in this claim, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

I dismiss the Tenant's Application for Dispute Resolution without leave to reapply. Furthermore, I grant an Order of Possession to the Landlord effective on **January 31, 2022 at 1:00 PM** after service of this Order on the Tenant. Should the Tenant 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: January 4, 2022

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Residential Tenancy Branch