



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Parksville Lions House Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the One Month Notice to End Tenancy for Cause, pursuant to section 47; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's agent (the "agent") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the agent and I were the only ones who had called into this teleconference.

Rule 7 of the Residential Tenancy Branch Rules of Procedure provides in part as follows:

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

The tenants failed to attend this hearing. Pursuant to Rule 7 of the Residential Tenancy Branch Rules of Procedure, I dismiss the tenants' application without leave to reapply.

Issue

1. Is the landlord entitled to an Order of Possession for Cause, pursuant to section 47 or 55 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the agent, not all details of the agent's submissions and arguments are reproduced here. The relevant and important aspects of the agent's claims and my findings are set out below.

The agent provided the following undisputed testimony. This tenancy began on May 29, 2004, and is currently ongoing. Monthly rent in the amount of \$472.00 is payable on the first day of each month. A security deposit of \$350.00 was paid by the tenants to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The landlord testified that the tenants were personally served with a One Month Notice to End Tenancy for Cause with an effective date of October 31, 2021 (the "One Month Notice"). The tenants' application for dispute resolution states that the One Month Notice was personally received on September 16, 2021. The tenants filed to dispute the One Month Notice on September 27, 2021. The One Month Notice states that 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 or the landlord. The One Month Notice was served with a letter of September 16, 2021, which states:

Please find attached a ONE MONTH NOTICE TO END TENANCY, yesterday at approximately 4:00PM [tenant G.L.] was waving/pointing a gun at 3 young girls in the courtyard. Earlier this month the RCMP were also at your unit and at that time I informed you that illegal activity will not be tolerated in our family housing complex.

The agent testified that the One Month Notice was served because on September 15, 2021, tenant G.L., while high, waived a gun at three young girls in the subject rental complex. The agent testified that the police were called and tenant G.L. was arrested and has been charged with a criminal offence. The agent entered into evidence a video

where tenant G.L. can be seen sitting in front of the subject rental property and three young girls are sitting on a bench in the same complex. Tenant G.L. cannot be seen clearly, but the girls can be seen to get up and run away from tenant G.L.

The agent entered into evidence an email from another tenant of the complex stating that tenant G.L., waived a gun at three girls and that the complainant's six-year-old is afraid to play outside because of tenant G.L.

The agent testified that the police were called after the September 16, 2021 incident and tenant G.L. was arrested and taken away in handcuffs. The agent testified that tenant G.L. was charged with a criminal offence and that his most recent court date was in December 2021.

### Analysis

Based on the agent's undisputed testimony and the tenants' application for dispute resolution, I find that the tenant was personally served with the One Month Notice on September 16, 2021.

Section 47(1)(e)(ii) states that a landlord may end a tenancy by giving notice to end the tenancy if the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that:

- has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property.

Based on the surveillance video, the email from another tenant of the subject rental complex and the agent's undisputed testimony, I find that tenant G.L. waived a gun at three children and was charged with a criminal offence. I find that waving a gun at children has adversely affected the quiet enjoyment, security, safety and physical well-being of other occupants of the subject rental complex. I therefore uphold the One Month Notice.

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

**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.

Upon review of the One Month Notice and the September 16, 2021 letter served with it, I find that they meet the form and content requirements of section 52 of the *Act*. In accordance with my above finding, the upholding of the One Month Notice and the dismissal of the tenants' application, pursuant to section 55(1) of the *Act*, I grant the landlord a two-day Order of Possession.

### Conclusion

The tenants' application is dismissed without leave to reapply.

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenants**. 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: February 07, 2022

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Residential Tenancy Branch