



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT, CNR, OLC, MNDCT, RR, LRE, PSF, MNRT, DRI

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on February 15, 2022. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord (respondent) attended the hearing. However, the Tenant (applicant) did not. The hearing was by telephone conference and began promptly, as scheduled, at 1:30 pm Pacific Time on February 15, 2022, as per the Notice of a Dispute Resolution provided to the Tenant. The line remained open while the phone system was monitored for 10 minutes and the only participant who called into the hearing during this time was the respondent Landlord who was ready to proceed. The Landlord stated that the Tenant continues to reside in the rental unit.

After the ten minute waiting period, the Tenant's application was **dismissed in full, without leave to reapply**.

Section 55 of the *Act* applies and states:

### **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.

(1.1) If an application referred to in subsection (1) is in relation to a landlord's notice to end a tenancy under section 46 [landlord's notice: non-payment of rent], and the circumstances referred to in subsection (1) (a) and (b) of this section apply, the director must grant an order requiring the payment of the unpaid rent.

Under section 55 of the *Act*, when a Tenant's application to cancel a notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 52, I must grant the Landlord an order of possession. Section 52 of the *Act* requires that any notice to end tenancy issued by a 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.

Although I find the Notice issued on December 3, 2021, was largely compliant with section 52 of the *Act*, I note the Landlord acknowledged that the Tenant paid all outstanding rent within 3 days of the Notice being posted to the door. As noted in section 46(4)(a) of the *Act*, if the Tenant pays all outstanding rent within 5 days of receiving the Notice, then the Notice has no force or effect. In this case, I find the Notice issued December 3, 2021, is of no force or effect, and it does not appear any rent is currently outstanding. As such, I decline to issue an order of possession or a monetary order, pursuant to section 55 of the *Act*.

### Conclusion

The Tenant's application is dismissed, in full, without leave to reapply.

However, the 10 Day Notice issued December 3, 2021, is of no force or effect.

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 15, 2022