



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

The Landlord applies for an order for possession pursuant to s. 55 of the *Residential Tenancy Act* (the “Act”) after issuing a One-Month Notice to End Tenancy signed September 28, 2021 (the “One-Month Notice”).

D.D. appeared as Landlord. The Tenant did not attend, nor did someone attend on their behalf.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend, the hearing was conducted in their absence without their participation as permitted by Rule 7.3 of the Rules of Procedure.

The Landlord affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord confirmed that he was not recording the hearing.

The Landlord advises the the Notice of Dispute Resolution and evidence was personally served on the Tenant on October 23, 2021. The Landlord provides a proof of service form, witnessed by a third-party, evidencing service of the application materials. I find that the Landlord’s application materials were served in accordance with s. 89 of the *Act* and were received by the Tenant on October 23, 2021.

### Issue(s) to be Decided

- 1) Is the Landlord entitled to an order for possession?

### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The Landlord advises that the Tenant has been occupying the rental unit for a number of years but could not recall when the tenancy began. He further advises that total rent for the rental unit is \$1,300.00 due on the first day of each month and that he holds a security deposit of \$650.00 in trust for the Tenant.

No copy of a written tenancy agreement was put into evidence by the Landlord.

The Landlord indicated that the One-Month Notice was served on the Tenant by posting it to the Tenant's door on September 28, 2021. The Landlord provides a photograph of the One-Month Notice on the rental unit door as evidence of service.

The Landlord says that he has not received an application from the Tenant disputing the One-Month Notice and confirmed that the Tenant continues to reside within the rental unit.

### Analysis

The Landlord seeks an order for possession after issuing the One-Month Notice.

I find that the One-Month Notice was served on the Tenant in accordance with s. 88 of the *Act* by having it posted to the Tenant's door on September 28, 2021. Pursuant to s. 90 of the *Act*, I deem that the Tenant received the One-Month Notice on October 1, 2021.

Under s. 47 of the *Act*, a landlord may end a tenancy for cause and serve a one-month notice to end tenancy on the tenant.

Pursuant to s. 47(3) of the *Act*, a notice to end tenancy issued under s. 47 must comply with the formal requirements of s. 52. I have reviewed the One-Month Notice and I find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

If a tenant chooses to dispute a one-month notice to end tenancy, they must do so by filing an application with the Residential Tenancy Branch within 10 days of receiving the notice. Indeed, at the top of the Notice to End Tenancy it states the following:

### **HOW TO DISPUTE THIS NOTICE**

You have the right to dispute this Notice **within 10 days** of receiving it, by filing an Application for Dispute Resolution with the Residential Tenancy Branch online, in person at any Service BC Office or by going to the Residential Tenancy Branch Office at #400 - 5021 Kingsway in Burnaby. If you do not apply within the required time limit, you are presumed to accept that the tenancy is ending and must move out of the rental unit by the effective date of this Notice.

In this case, the Tenant failed to file a dispute at all. Given this, s. 47(5) is engaged and I find that the Tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit on the effective date. In this case, the effective date is October 31, 2021.

As the Tenant continues to reside within the rental unit, I find that the Landlord is entitled to an order for possession.

### Conclusion

The Tenant is conclusively presumed to have accepted the end of the tenancy pursuant to s. 47(5) of the *Act*. As the Tenant continues to reside within the rental unit after the effective date of October 31, 2021, I find that the Landlord is entitled to an order for possession. I order pursuant to s. 55 of the *Act* that the Tenant give vacant possession of the rental unit to the Landlord within **two (2) days** of receiving order for possession.

It is the Landlord's obligation to serve the order for possession on the Tenant. If the Tenant does not comply with the order for possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that Court.

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 28, 2022

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Residential Tenancy Branch