



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on May 24, 2022. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause (the Notice)

The Landlord's Agent (the "Agent") provided affirmed testimony at the hearing. The Tenant did not attend the hearing.

The Agent testified that they personally gave the Tenant a copy of the Notice of Dispute Resolution Proceeding and supporting documentary evidence on February 23, 2022. I find the Tenant was sufficiently served with these documents the same day they were personally served to him.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

### Background and Evidence

The Landlord testified that they served the Tenant with the Notice by personally giving him a copy on September 22, 2021. Service of this document was witnessed by a third party, as per the Proof of Service document.

The Notice indicates the reasons for ending the tenancy are:

Tenant or a person permitted on the property by the Tenant has:

- put the landlord's property at significant risk.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Landlord attached a letter, dated September 21, 2021, listing all of the issues they have had with the Tenant. Specially, that the Tenant has failed to maintain an acceptable standard of cleanliness in his rental unit, which has caused excessive pests, smells, and health risks to himself and others in the building. Efforts to help the Tenant have failed.

### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, the Agent issued the Notice on the bases indicated above. Based on the Agent's testimony and the Proof of Service document submitted with the Agent's documentary evidence, I am satisfied that the Agent served the Tenant with the Notice, September 22, 2021. The Agent issued this Notice for cause, under section 47(1) of the *Act*.

The Tenant had 10 days, until October 2, 2021, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenant is conclusively presumed to have accepted the end of the tenancy. I also note the Landlord has

explained and supported why the Notice was issued. I accept the undisputed issues, and the basis for the Notice.

The Landlord is entitled to an order of possession, which will be effective 2 days after it is served to the Tenant.

### Conclusion

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be 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: May 24, 2022

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Residential Tenancy Branch