



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LOOKOUT HOUSING AND HEALTH  
SOCIETY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The landlord applied on March 11, 2022 for:

- an order of possession, having served a One Month Notice to End Tenancy for Cause, dated December 21, 2021 (the One Month Notice); and
- the filing fee.

Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The tenant confirmed receipt of the landlord's Notice of Dispute Resolution Proceeding and evidence, and the landlord confirmed receipt of the tenant's responsive evidence.

### Preliminary Matter

The tenant testified that he had applied to dispute the One Month Notice.

The file number of that related proceeding is included on the cover page of this decision. Having reviewed the tenant's dispute, I determined that the tenant had applied on December 31, 2021 to dispute the same One Month Notice (dated December 21, 2021). The decision from the March 8, 2022 hearing states that as no one attended the hearing, the tenant's application is dismissed, with leave to reapply.

I note that the corrected effective date of the One Month Notice is January 31, 2022, the date of the hearing was March 8, 2022, and that, pursuant to section 66(3) of the Act, an arbitrator must not extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the notice.

The landlord did not attend the March 8, 2022 hearing and was not granted an order of possession under section 55(1) of the Act.

Accordingly, I will consider the landlord's application for an order of possession on its merits.

### Issues to be Decided

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to the filing fee?

### Background and Evidence

Those present agreed on the following particulars of the tenancy. Rent is \$385.00 a month, due on the first of the month, and the tenant paid a security deposit of \$192.50 which the landlord still holds.

The landlord testified that they took over the tenancy in August 2020, and that the records indicate the tenancy began May 1, 2020. The tenant testified that the tenancy began about four years ago, and that he signed an agreement with the current landlord on August 15, 2020.

The landlord testified that the One Month Notice was served on the tenant by posting it to the door on December 21, 2021. The tenant could not recall when he received it, stating it was "around Christmas."

The One Month Notice is signed and dated by the landlord, contains an effective date, states the reasons for the notice, and is in the approved form.

The One Month Notice indicates that the reasons for the Notice are:

- The tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord; and
  - seriously jeopardized the health or safety or lawful right of another occupant or the Landlord;
- The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property; and
- The tenant or a person permitted on the property by 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 of the landlord.

The Details of Causes section records event details related to the reasons indicated, including that on numerous occasions since becoming the landlords, the landlords have received complaints about the tenant's behaviour, and have spoke to the tenant about it. The notice refers to the tenant becoming intoxicated and banging on a neighbour's door "at all hours of the night," the tenant playing extremely loud music at 4:00 a.m. and being passed out in the hall, and that in October 2021 the tenant was removed from the building by police for extreme intoxication. The Notice also states that, on December 21, 2021 at 2:00 a.m., the tenant was again intoxicated and trying to kick in the doors of neighbouring units, requiring police attendance.

The landlord testified that they have received multiple complaints from other tenants about the tenant's behaviour, and that the landlord received a petition from the other tenants regarding the disturbance the tenant creates. The petition, submitted as evidence, is dated November 6, 2021, and is signed by tenants from four units on the same floor as the tenant, and states that the tenant gets drunk at night, yells for hours, then starts banging on doors looking for a fight, then passes out in front of his door and urinates on the carpet. The petition states that the tenant wakes up the whole floor.

A recent complaint letter from another tenant, dated May 11, 2022, states that the tenant was intoxicated and urinated on the bathroom floor with the door open. Other complaint letters from tenants are submitted as evidence.

The landlord testified they have issued warning letters to the tenant; the third is dated March 12, 2021, and is submitted as evidence.

The landlord testified that a tenant from the subject tenant's floor moved out due to the repetitive noise from the subject tenant.

The tenant provided extensive testimony referring to his previous application, and regarding an application to BC Housing. The tenant testified that he has no communication with the other tenants on his floor, other than the occasional greeting. The tenant referred to an interaction with another tenant in which that tenant called police as she did not want people to talk in the common area around her window.

The tenant referred to the other tenants' complaint letters, submitting that all the allegations were untrue, and he does not communicate with his neighbours. The tenant testified that the allegations in the One Month Notice are not correct and are out of context.

### Analysis

Section 47(4) of the Act provides that upon receipt of a notice to end tenancy for cause, the tenant may, within 10 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I find that the One Month Notice was served on the tenant by posting it to the door on December 21, 2021, in accordance with sections 88 of the Act, and deem it received by the tenant on December 24, 2021, in accordance with section 90 of the Act.

I find that the tenant has failed to file an application for dispute resolution within 10 days of December 24, 2021, the timeline granted under section 47(4) of the Act. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ends on the corrected effective date of the One Month Notice, January 31, 2022.

I find that the landlord's One Month Notice meets the form and content requirements of section 52 of the Act as it is signed and dated by the landlord, gives the address of the rental unit, states an effective date of the notice, states the reasons for ending the tenancy, and is in the approved form.

I accept the landlord's affirmed testimony and documentary evidence that other tenants have repeatedly complained that the tenant becomes intoxicated, yells and plays loud music late at night, and on more than one occasion has attempted to kick in neighbours' doors, requiring response by police. I accept that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

Therefore, in accordance with section 55 of the Act, I find that the landlord is entitled to an order of possession.

As the tenant testified that they still reside in the rental unit, I order that in accordance with section 68(2)(a) of the Act, the tenancy ended on the date of the hearing, June 27, 2022.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in their application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

In accordance with section 72, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction.

The security deposit for this tenancy is reduced by \$100.00 to \$92.50.

Conclusion

The landlord's application is granted.

I grant the landlord an order of possession, which will be effective 1:00 p.m. on June 30, 2022.

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: June 30, 2022

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Residential Tenancy Branch