



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUPER SILVER HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

This hearing dealt with the Landlord's application under the *Residential Tenancy Act* (the "Act") for:

- an Order of Possession under a One Month Notice to End Tenancy for Cause dated May 31, 2022 (the "One Month Notice"), pursuant to section 55; and
- authorization to recover the filing fee for this application from the Tenant pursuant to section 72.

The Landlord's agent SL attended this hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 9:48 am in order to enable the Tenant to call into the hearing scheduled to start at 9:30 am. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that SL and I were the only ones who had called into the hearing.

I informed SL that the Residential Tenancy Branch Rules of Procedure prohibit unauthorized recordings of dispute resolution hearings.

### Preliminary Matter – Service of Dispute Resolution Documents

SL confirmed that the notice of dispute resolution proceeding packages and Landlord's evidence (collectively, the "NDRP Package") were sent to the Tenant by registered mail on October 20, 2022. The Landlord submitted a registered mail receipt with tracking number in support of service. That tracking number is referenced on the cover page of

this decision. Based on the foregoing, I find the Tenant was served with the NDRP Package in accordance with sections 88(c) and 89(1)(c) of the Act. Pursuant to section 90(a) of the Act, I find the Tenant is deemed to have received the NDRP Package five days after mailing, or on October 25, 2022.

#### Preliminary Matter – Amendment of Landlord on Application

This application initially listed SL twice, as both the landlord and the landlord's agent. The materials submitted, including the One Month Notice, indicate that Super Silver Holdings Ltd. is the Landlord, and that SL is the Landlord's agent. Pursuant to section 64(3)(c) of the Act, I have amended this application so that Super Silver Holdings Ltd. is the named Landlord.

#### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession under the One Month Notice?
2. Is the Landlord entitled to recover the filing fee?

#### Background and Evidence

This tenancy commenced on July 15, 2007 and is month-to-month. Rent is \$632.35 due on the first day of each month. The Tenant paid a security deposit of \$265.00.

A copy of the One Month Notice is submitted into evidence. It is signed by SL on behalf of the Landlord and has an effective date of June 30, 2022. The One Month Notice states the following reasons for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park
- Tenant has not done required repairs of damage to the unit/site/property/park
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The One Month Notice provides the following additional details of cause (portions redacted for privacy):

*we have done home inspection for [the Tenant] every three months for a number of years and each visit we see the condition of the unit has gone from bad to worse. The verbal notices were done with when [the Tenant] could not bring the*

*unit to a health standard. 1<sup>st</sup> writren (sic) letter given February 4th 2016, nothing done, 2nd letter given November 1st 2019, nothing done follow up done November 15th 2019, nothing done. another follow up letter given November 30th 2019, nothing done. Another inspection done February 8th 2022, nothing done. First DEMAND LETTER given February 8th 2022, nothing done. 2nd and FINAL DEMAND LETTER given April 24th 2022, one last follow up inspection done on May 31st 2022, and once again, nothing done. [The Tenant] just does not listen to fix up the hole in the wall or fix the ripped carpet in the dining room or even to bring the unit to health standard. It is really difficult for me to breathe as soon as I walk in the unit. It is time to have an order of possession to totally renovate the unit, due to all the damages done by [the Tenant].*

SL testified she has tried to work with the Tenant for a long time to fix the situation in the rental unit. SL testified that the rental unit is in an unhealthy state and is unsafe to walk through.

SL referred to photographs of the rental unit and letters submitted into evidence by the Landlord.

SL confirmed the Tenant is still residing in the rental unit.

### Analysis

#### *1. Is the Landlord entitled to an Order of Possession under the One Month Notice?*

Section 47 of the Act permits a landlord to end a tenancy for cause by issuing a one month notice to the tenant. Section 47(1) provides a list of grounds which may constitute cause under this section.

47(3) of the Act requires that a notice to end tenancy for cause comply with section 52 of the Act, which states:

#### **Form and content of notice to end tenancy**

52 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,

- (d) except for a notice under section 45(1) or (2) *[tenant's notice]*, state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 *[tenant's notice: family violence or long-term care]*, be accompanied by a statement made in accordance with section 45.2 *[confirmation of eligibility]*, and
- (e) when given by a landlord, be in the approved form.

In this case, I have reviewed the One Month Notice and find that it complies with the requirements of section 52 in form and content. I find that the grounds for ending the tenancy stated in the One Month Notice correspond to those described in sections 47(1)(f), 47(1)(g), and 47(1)(h) of the Act.

I further note that I have reviewed the materials submitted by the Landlord. I find the Landlord submitted photographs showing the damage in the rental unit, as well as letters from the Landlord requesting the Tenant to repair the damage.

I accept the Landlord's evidence that a copy of the One Month Notice was posted to the Tenant's door on May 31, 2022. I find the Tenant was served with the One Month Notice in accordance with section 88(g) of the Act. Pursuant to section 90(c) of the Act, I find the Tenant is deemed to have received the One Month Notice on June 3, 2022.

Section 47(4) of the Act permits a tenant to dispute a one month notice to end tenancy for cause within 10 days after receiving such notice. Therefore, the Tenant had until June 13, 2022 to dispute the One Month Notice. Records of the Residential Tenancy Branch indicate that the Tenant had applied to dispute the One Month Notice on June 10, 2022 (file number referenced on cover page of this decision), and a hearing was scheduled for October 28, 2022. However, records further indicate that neither the Tenant nor the Landlord attended the October 28, 2022 hearing, and as a result the Tenant's application was dismissed with leave to re-apply. Since the Tenant's application has already been dismissed with leave to re-apply, I conclude the Tenant has not effectively disputed the One Month Notice under section 47(4) of the Act.

Section 47(5) of the Act states that if a tenant who has received a notice under section 47 does not make an application for dispute resolution in accordance with section 47(4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

Furthermore, sections 55(2)(b) and 55(4) of the Act state as follows:

**Order of possession for the landlord**

55 [...]

(2) A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:

[...]

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired; [...]

[...]

(4) In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 5 *[Resolving Disputes]*,

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, I have found the One Month Notice was deemed served on June 3, 2022, the time for disputing the One Month Notice expired on June 13, 2022, and the Tenant did not effectively dispute the One Month Notice as the Tenant's application was dismissed with leave to re-apply. Accordingly, I conclude that the Landlord is entitled to an Order of Possession pursuant to sections 55(2)(b) and 55(4)(a) of the Act.

The effective date stated on the One Month Notice (June 30, 2022) and the corrected effective date of July 31, 2022 under sections 47(2)(a) and 53 of the Act have already passed. I grant an Order of Possession to the Landlord effective two (2) days after service of the Order upon the Tenant.

*2. Is the Landlord entitled to recovery of the filing fee?*

As the Landlord has been successful in this application, I grant the Landlord's claim for recovery of the \$100.00 filing fee under section 72(1) of the Act.

Pursuant to section 72(2)(b) of the Act, I order that the Landlord is authorized to deduct \$100.00 from the Tenant's security deposit in full satisfaction of the amount awarded in this application.

Conclusion

The Landlord is successful in this application.

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **two (2) days** after service upon the Tenant. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is authorized to deduct **\$100.00** from the Tenant's security deposit on account of the filing fee awarded in this application. The balance of the Tenant's security deposit shall be dealt with in accordance with the Act, the regulation, and the parties' tenancy agreement.

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: November 21, 2022

---

Residential Tenancy Branch