



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **CNC**

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- cancellation of the landlords’ One Month Notice to End Tenancy for End of Employment (“One Month Notice”) pursuant to section 47

The landlord attended represented by an agent VP. The tenant did not attend. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

Both parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The landlord stated that the One Month Notice dated October 26, 2022, with an effective date of November 30, 2022, was served in person on the tenant on October 26, 2022. Pursuant to sections 89 and 90 of the Act the tenant is deemed to have been served with this notice in accordance with the Act on October 26, 2022.

The landlord acknowledged receipt of the tenant’s dispute notice and supporting materials. I find the landlord duly served in accordance with sections 88 and 89 of the Act.

Issue to be Decided

1. Is the One Month Notice valid and enforceable against the tenant? If so, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy commenced August 21, 2021, on a month-to-month basis as a result of employment with the landlord. Rent is \$1,450.00 per month due on the first of the month. The landlord still holds a security deposit of \$725.00. The tenant still occupies the rental unit.

At the outset of the hearing the landlord advised that the tenant gave her notice to vacate the rental unit effective January 31, 2023. However, the landlord still seeks an order of possession for the rental unit. The One Month Notice was produced in evidence.

The landlord requested that the order of possession coincide with the tenant's notice to vacate date of January 31, 2023.

Analysis

RTB Rules of Procedure 6.6 states, "The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application. However, in some situations the arbitrator may determine the onus of proof is on the other party. For example, the landlord must prove the reason they wish to end the tenancy when the tenants apply to cancel a Notice to End Tenancy." In this case, the landlord has the burden of proving the validity of the One Month Notice served on the tenant.

The landlord testified that the rental unit was provided pursuant to the tenant's employment. The employment was ended, and the landlord requires the unit. The landlord testified that the tenant has given her notice to end the tenancy effective January 31, 2023.

As the tenant did not appear for her dispute hearing, her application for dispute resolution is dismissed.

The undisputed evidence before me is that the One Month Notice meets the form and content requirements of section 52 of the Act. Section 55 of the Act requires me to issue an order of possession in favour of the landlord if the One Month Notice meets the form and content requirements of section 52 of the Act and if I dismiss the tenant's application. As section 55(1) of the Act is satisfied, the landlord is entitled to an order of possession effective two days from the date it is served on the tenant.

### Conclusion

The landlord is granted an order of possession which will be effective January 31, 2023 at 1:00 pm. The order of possession must be served on the tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: January 23, 2023

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Residential Tenancy Branch