



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing was convened in response to cross-applications by the parties pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

Landlord:

- an order of possession for cause pursuant to section 55;
- authorization to recover the filing fee for this application pursuant to section 72.

Tenant:

- cancellation of the landlord’s One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The hearing was conducted by conference call. All named parties attended the hearing. The tenant acknowledged service of the landlord’s Application for Dispute Resolution including the landlord’s evidence package.

### **Preliminary Issue: Service of Tenant’s Application**

The landlord testified that he was not served with the tenant’s Application for Dispute Resolution. The tenant testified that on September 21, 2022, she sent a copy of her Application for Dispute Resolution and Notice of Hearing to the landlord by Registered Mail. The tenant insisted that she submitted evidence of proof of service to the Residential Tenancy Branch (the RTB) but no such evidence was on file. The tenant also stated that she had made other evidence submissions to the RTB which included a police report; however, no evidence submissions were on file from the tenant in either application. The tenant was provided over 30 minutes during the hearing to provide a tracking number as proof of service of her Application for Dispute Resolution on the

landlord. After some time, the tenant provided the tracking number R200208847-74233. A Canada Post online search returned the result that this was not a valid tracking number. The tenant was then provided additional time to provide a valid tracking number. The hearing began at 1:30 p.m. and by 2:00 p.m. the tenant was not able to provide a tracking number as proof of service.

As the tenant was not able to provide a registered mail receipt or a tracking number, I am not satisfied the landlord has been served with the tenant's application for dispute resolution in a manner required under section 89 of the *Act*.

The tenant's Application for Dispute Resolution is therefore dismissed in its entirety with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The hearing proceeded on the merits of the landlord's Application.

### Issues

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to recover its filing fee?

### Background and Evidence

The tenancy began on July 1, 2021.

The landlord testified that on August 29, 2022 he served the tenant with the One Month Notice by posting a copy to the door of the rental premises.

The tenant acknowledged receipt of the One Month Notice. The tenant's application to dispute the One Month Notice was filed on September 2, 2022, within the timelines permitted under the *Act*.

### Analysis

Section 47 of the *Act* contains provisions by which a landlord may end a tenancy for cause by issuing a One Month Notice. A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

Section 55(1) of the *Act* states that if a tenant applies to dispute a landlord's notice to end tenancy and their Application for Dispute Resolution is dismissed or the landlord's notice is upheld the landlord must be granted an order of possession if the notice complies with the form and content requirements under section 52 of the *Act*.

Although the tenant filed an Application for Dispute Resolution within the time limit permitted under the *Act*, the tenant's Application is dismissed as the tenant failed to provide sufficient evidence in support of service of the Application to the landlord.

Section 52 of the *Act* states as follows:

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, and
- (e) when given by a landlord, be in the approved form.

I find that the One Month Notice served by the landlord is in compliance with the form and content requirements of section 52 of the *Act*. The Notice was signed and dated by the landlord, provided the address of the rental unit, stated the effective date of the Notice, stated the grounds for ending the tenancy and was in the approved form.

Therefore, the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the tenant's security deposit.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed 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