



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PINE SPRINGS PARK  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution, filed on September 14, 2022, wherein the Landlord sought an Order of Possession based on a 1 Month Notice to End Tenancy for Cause issued on August 5, 2022 (the "Notice") as well as recovery of the filing fee.

The hearing of the Landlord's Application was scheduled for teleconference at 11:00 a.m. on January 31, 2023. Only the Landlord's representative, M.G. (hereinafter referred to as the "Landlord") called into the hearing. The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:10 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

As the Tenant failed to call into the hearing, I considered service of the Landlord's Application materials. The Landlord testified that he personally served the Tenant with Notice of the Dispute Resolution Hearing, the Application and all supporting evidence on September 29, 2022. I accept the Landlord's testimony in this respect and find the Tenant was duly served with notice of the hearing and proceeded with the hearing in their absence.

The Landlord was cautioned that private recordings of the hearing were not permitted pursuant to *Rule 6.11* of the *Residential Tenancy Branch Rules*. The Landlord confirmed their understanding of this requirement and further confirmed they were not making recordings of the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the Landlord and relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Should the Landlord recover the filing fee?

### Background and Evidence

A month to month tenancy agreement between the parties began on or about November 1, 2019. At the time of the hearing, monthly rent in the amount \$750.00 was due on the first day of each month during the tenancy. The Tenant paid a \$375.00 security deposit at the start of the tenancy which the Landlord continues to hold.

The Landlord issued the Notice on August 5, 2022. The Notice has an effective vacancy date of September 8, 2022. The Landlord testified that the Notice was personally served on the Tenant on August 5, 2022.

The Notice informs the Tenant that they had ten days from the date of service to dispute the Notice by filing an Application for Dispute Resolution. The Landlord testified that the Tenant did not apply for dispute resolution.

The Landlord provided undisputed testimony as to the reasons for issuing the Notice. In this respect the Landlord stated that the Tenant caused extraordinary damage to the rental unit by removing the fridge, stove and shower and painting graffiti on the front door. Photos submitted by the Landlord support this testimony.

### Analysis

A Landlord may end a tenancy provided they do so in accordance with the *Residential Tenancy Act*. Section 47 of the *Act* allows a Landlord to end a tenancy for cause and reads as follows:

**Landlord's notice: cause**

**47** (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;

(b) the tenant is repeatedly late paying rent;

(c) there are an unreasonable number of occupants in a rental unit;

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i) has caused or is likely to cause damage to the landlord's property,

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g)the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) [*obligations to repair and maintain*], within a reasonable time;

(h)the tenant

(i)has failed to comply with a material term, and

(ii)has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(i)the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 [*assignment and subletting*];

(j)the tenant knowingly gives false information about the residential property to a prospective tenant or purchaser viewing the residential property;

(k)the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;

(l)the tenant has not complied with an order of the director within 30 days of the later of the following dates:

(i)the date the tenant receives the order;

(ii)the date specified in the order for the tenant to comply with the order.

(2)A notice under this section must end the tenancy effective on a date that is

(a)not earlier than one month after the date the notice is received, and

(b)the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3)A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.

(4)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.

(5)If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

(a)is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b)must vacate the rental unit by that date.

Based on the documentary evidence filed, the undisputed testimony of the Landlord, and on the balance of probabilities, I find the following.

I find the Tenant was served the Notice on August 5, 2022. The Tenant did not apply to dispute the Notice and is conclusively presumed, pursuant to section 47(5) of the *Act*, to accept the end of the tenancy and must vacate the rental unit.

I have also considered the Landlord's testimony and evidence as it relates to the reasons for issuing the Notice and I am satisfied the Landlord has cause to end this tenancy. I find the Tenant has caused extraordinary damage to the rental unit and has not repaired this damage despite requests by the Landlord to do so.

I have reviewed the Notice and confirm it complies with section 52 of the *Act*. As such and pursuant to section 55 of the *Act*, the Landlord is entitled to an Order of Possession effective **two days** after service upon the Tenant. This Order must be served on the Tenant and may be enforced in the Supreme Court of British Columbia.

As the Landlord's application had merit, I grant the Landlord the recovery of the \$100.00 filing fee. Pursuant to section 72 of the *Act*, I authorize the Landlord to retain \$100.00 of the Tenant's security deposit as recovery of this sum.

Conclusion

The Landlord's Application is granted in its entirety. The Landlord is granted an Order of Possession and is entitled to retain \$100.00 of the Tenant's security deposit as recovery of the filing fee.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: February 2, 2023

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Residential Tenancy Branch