



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNC, LRE, OLC  
                             OPC, FFL

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s Application for Dispute Resolution was made on January 11, 2023. The Tenant applied to cancel One Month Notice to End Tenancy for Cause, (the “Notice”) dated January 4, 2023, for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, and for an order that the Landlord to comply with the *Act*, regulation and/or the tenancy agreement.

The Landlord’s Application for Dispute Resolution was made on March 25, 2023. The Landlord applied for an order to enforce a One Month Notice to End Tenancy for Cause, (the “Notice”) dated January 4, 2023, and to recover their filing fee.

The Tenant and the Landlord attended the hearing and were each affirmed to be truthful in their testimony. The Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Parties agreed that they had exchanged the evidence I have before me in these proceedings.

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlord has the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Preliminary Matter – *Related Issues*

I have reviewed the Tenant's application, and I note that they have applied to cancel a Notice to end tenancy as well as two other issues. I find that these other issues are not related to the Tenant's request to cancel the Notice. As these other matters do not relate directly to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

#### **2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

I explained to the parties, at the outset of the hearing, that I am dismissing with leave to reapply the Tenant's claim for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, and for an order that the Landlord to comply with the *Act*.

### Issues to be Decided

- Should the One Month Notice to End Tenancy for Cause, dated January 4, 2023, be cancelled?
- If not, is the Landlord entitled to an order of possession?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The testimony of both parties is that the Landlord served the Tenant with the Notice on January 4, 2023, by posting the Notice to the front door of the rental unit. The notice indicated that the Tenancy would end on February 28, 2023. Both the Landlord and the Tenant submitted a copy of the Notice into documentary evidence.

The reason checked off by the Agent within the Notice was as follows:

- *Rental unit /site must be vacated to comply with a government order.*

The Landlord testified that they had received a letter from the municipal bylaw office, dated November 26, 2022, advising them that they were in violation of the zoning bylaws, by having twelve people residing in a “Single Family” residence, and that they were ordered to reduce the number of people living on the property to six. The Landlord submitted a copy of the letter into documentary evidence.

The Landlord testified that they chose this tenancy to be one of the ones they ended under this municipal order.

### Analysis

Based on the above testimony, documentary evidence and on the balance of probabilities, I find as follows:

I find that the Tenant received the Notice on January 7, 2023, three days after it was posted to the front door of the rental unit. Pursuant to section 47 of the *Act*, a tenant who received a notice pursuant to this section has ten days to dispute the Notice after it had been received. Therefore, I find the Tenant had until January 17, 2023, to file their application to dispute this Notice. I have reviewed the Tenant’s application, and I find that the Tenant filed their application on January 11, 2023, within the statutory time limit.

Section 47 of the *Act* provides that a landlord may end a tenancy where they have been ordered to do so by a government authority; stating the following:

#### ***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:*

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

In this case, I accept the sworn testimony of the Landlord supported by documentary evidence, that they were ordered by their local municipal government authority to reduce the number of tenancies that have on the rental property, from twelve to six. I find that this order from the municipal government authority is a sufficient cause to

justify the Notice issued by the Landlord. Consequently, I dismiss the Tenant's application to cancel the Notice dated January 4, 2023.

Section 55(1) of the Act states:

***Order of possession for the landlord***

***55(1)*** *If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

I have reviewed the Notice to end tenancy, and I find the Notice complies with section 52 of the Act.

Therefore, I find that the Landlord is entitled to their requested Order of Possession effective not later than 1:00 p.m. on May 31, 2023. 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. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

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 has been successful in their application to enforce the Notice, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. I grant permission to the Landlord to retain \$100.00 from the security deposit they are holding for this tenancy in full satisfaction of this award.

Conclusion

The Tenant's Application to cancel the Notice, dated January 4, 2023, is dismissed. I find the Notice is valid and complies with the Act.

I grant an **Order of Possession** to the Landlord effective not later than 1:00 p.m. on May 31, 2023. 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.

I award the Landlord the recovery of their filing fee for this hearing, and I grant the permission to the Landlord to retain \$100.00 from the security deposit they are holding for this tenancy in full satisfaction of this award.

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: May 9, 2023

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Residential Tenancy Branch