



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SOUTH OKANAGAN SIMILKAMEEN BRAIN INJURY SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on March 6, 2023 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice for Cause dated October 5, 2022 (the "One Month Notice").

The Landlord's Agents N.C., M.B., the Tenant, and the Tenant's Advocate M.L. attended the hearing at the appointed date and time. At the start of the hearing, the parties confirmed service and receipt of the Application and documentary evidence packages. As there were no issues raised, I find these documents were sufficiently served pursuant to Section 71 of the *Act*.

At that start of the hearing, it was discussed that the Landlord served the Tenant with the One Month Notice as the Tenant no longer qualifies to reside in the rental unit based on the number of occupants. The Landlord's Agents confirmed that the rental unit is a subsidized rental unit where the Tenant is required to demonstrate their eligibility in order to continue residing in the rental unit. The Landlord's Agents stated that the Tenant has not yet done so despite several opportunities. As such, the Landlord is seeking to end the tenancy.

### Preliminary Matters

#### **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.**

**Landlord's notice: tenant ceases to qualify for rental unit**

**49.1** (1)In this section:

**"public housing body"** means a prescribed person or organization;

**"subsidized rental unit"** means a rental unit that is

- (a)operated by a public housing body, or on behalf of a public housing body, and
- (b)occupied by a tenant who was required to demonstrate that the tenant, or another proposed occupant, met eligibility criteria related to income, number of occupants, health or other similar criteria before entering into the tenancy agreement in relation to the rental unit.

(2)Subject to section 50 [*tenant may end tenancy early*] and if provided for in the tenancy agreement, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

(3)Unless the tenant agrees in writing to an earlier date, a notice under this section must end the tenancy on a date that is

- (a)not earlier than 2 months after the date the notice is received,
- (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, and

(c)if the tenancy agreement is a fixed term tenancy agreement,  
not earlier than the date specified as the end of the tenancy.

(4)A notice under this section must comply with section 52.

(5)A tenant may dispute a notice under this section by making an  
application for dispute resolution within 15 days after the date the tenant  
receives the notice.

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

I note that the Landlord has served the Tenant with a One Month Notice to End Tenancy for Cause, rather than a “Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit (RTB-32)”. I find that the One Month Notice to End Tenancy for Cause is not the proper form to serve in cases where the Tenant no longer qualifies for subsidized housing. As such, I cancel the One Month Notice and I order the tenancy continue until it is ended in accordance with the Act.

The Landlord is at liberty to serve the proper form which can be found on the RTB website: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/ending-a-tenancy/landlord-notice/two-month-notice>

### Conclusion

The One Month Notice dated October 5, 2022 is cancelled. The tenancy shall continue until it is ended in accordance with the Act.

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: June 19, 2023

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Residential Tenancy Branch