



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes (T) CNC, AAT
(L) OPC, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (One Month Notice) under sections 47 and 55 of the Act
- reimbursement of the filing fee from the Tenants under section 72 of the Act

and, the Tenants' application to cancel the One Month Notice issued by the Landlord. Additionally, the Tenants submitted an application requesting an order that the Landlord allow Tenant N.M. access to the rental unit under section 30 of the Act.

The Landlord was represented by its owner J.A., property manager D.A. and secretary L.D. at the hearing.

Tenant A.P. and Tenant N.M. both attended the hearing.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find the Landlord was served with the Tenants' proceeding package in person on September 29, 2025, in accordance with section 89(1) of the Act. The Tenants provided a completed proof of service form to confirm this service.

I find each Tenant was served with the proceeding package by the Landlord in person on September 27, 2025, pursuant to section 89(1) of the Act. The Tenants completed a proof of service form to confirm this service.

Service of Evidence

The Landlord's owner confirmed copies of its evidence was included in the proceeding packages served to each Tenant.

The Tenants stated they served copies of their evidence to the Landlord on October 12, 2025, by posting to the office door.

Each party confirmed receipt of the other party's evidence as well as an opportunity to review prior to this hearing.

Issue for Decision

Is the Landlord entitled to an Order of Possession based on the One Month Notice or should the Notice be Cancelled?

Are the Tenants entitled to an order requiring the Landlord provide the Tenants access to the rental unit?

Should the Landlord be reimbursed the filing fee from the Tenants?

Background and Evidence

I have reviewed the evidence and I have considered the testimony of the parties in reaching my determination.

This tenancy commenced on May 1, 2014, and has continued on a monthly basis. The Tenants' current monthly rent is \$1,134.50 due on the first day of the month. The Tenants provided the Landlord with a security deposit and a pet damage deposit each in the amount of \$487.50 which the Landlord continues to hold in trust. A copy of the tenancy agreement was provided in evidence.

On August 28, 2025, the Landlord issued a One Month Notice to End Tenancy for Cause with an effective date of September 30, 2025. The Notice was served to the Tenants by posting to the rental unit door. The Tenants' application confirms receipt of the Notice on August 28, 2025 that was posted to their rental unit door. The Landlord provided a copy of the Notice together with a completed proof of service form to confirm service of the Notice.

The Notice states the reason for issuance was the Tenants' extraordinary damage to the rental unit or property. The Notice details that on August 23, 2025, the Tenants' bathtub overflowed with water which flowed to the unit directly below causing significant damage to that unit. The Notice also noted this is the second instance the Tenants had allowed water to overflow their tub and leak into the unit below.

The Landlord owner testified the tenant in the unit directly below the Tenants' unit contacted the property manager to advise that water was flowing from the unit above into her bathroom and hallway. The property manager testified this occurred at approximately 9:30 p.m. He stated he went to her unit and saw there was extensive water in her bathroom and water was present in the hallway in her unit. The property manager said he then went to the Tenants' unit and Tenant A.P. answered the door, commenting to the effect he had fallen asleep and left the tub faucet running. The property manager stated a remediation and restoration company was contacted to work on water damage to the lower unit. The owner stated the remediation to the unit below cost \$3,200.00. The Landlord submitted copies of the remediation company report and invoices for the incident. The Landlord submitted a video of the water flowing from the vent in the lower-level unit bathroom from the Tenants' unit and the accumulation of water in that unit.

The property manager stated Tenant A.P. told him the toilet had malfunctioned and the overflow came from the toilet and was not the result of the faucet for the bathtub faucet left running. The Landlord retained two plumbers to investigate the Tenant's claim and the plumbers determined the toilet was operational, the toilet was not leaking and the flooding in the unit could not have occurred the way the Tenant described in any event. A copy of the plumber's invoice with written conclusions was provided in evidence by the Landlord. The Landlord stated the plumbers' invoices for inspecting the Tenants' toilet amounted to approximately \$600.00.

Upon inquiry regarding the prior incident, the property manager stated that in approximately late November 2024, the tenant in the unit below the Tenants came to his door to advise there was water flowing from the Tenants' bathroom into her unit. The Landlord submitted an email from the tenant regarding that event (the tenant having since moved out). The property manager stated by the time he reached the tenant's unit the water had stopped but had nonetheless reached the carpeted hallway. The property manager stated he worked with the tenant in cleaning up the water in her bathroom and retained a remediation service to dry-out the carpeting in the hallway. In the email communication with the tenant, she recalled the incident in November 2024 occurred at approximately 9:15 p.m. and she further stated the source of the water was from Tenant A.P. falling asleep while the bathtub overflowed.

Tenant A.P. denied that the August 23, 2025, incident was the result of the tub-water overflowing. (Tenant N.M. testified she was not present in the unit at that time.) Tenant A.P. stated the toilet was malfunctioning and the water had been flowing from the toilet as it backed up. Upon inquiry, he stated the toilet had only started malfunctioning that evening sometime between 6:00 p.m. and 9:30 p.m. Additionally, he explained with respect to the incident in November 2024, the tub overflowing was due to him "sloshing around" the water when he fell asleep and not because he left the faucet running. Tenant N.M. stated she believed the incident occurred "years ago," but Tenant A.P. confirmed the first incident was in November 2024.

Tenant N.M. stated her key fob (which provides access to the main entrance in the building) had broken in August 2025 and she had turned it into the Landlord but had not received a replacement key fob since then. The property manager testified Tenant N.M. had a moving van at the building and he had seen her moving out furniture and household items for a day and a half, which he stated he knew as he had booked the elevator for the move. The property manager stated he was under the impression Tenant N.M. had moved out as, in addition to moving out household items and furniture, had turned in her fob and other keys for the rental unit and property. Additionally, the property manager testified Tenant A.P. informed him they would no longer need their parking space and he had given their spot to an individual on the waiting list. Thus, based on these circumstances, the Landlord considered Tenant N.M. to have vacated the unit.

Tenant N.M. denied she returned keys to the unit or that she had moved out. Rather, she explained, she had donated her furniture to a family member. Tenant N.M. stated she had not turned in her keys to the rental unit to the Landlord, only the fob because it was broken.

Analysis

Is the Landlord entitled to an Order of Possession based on the One Month Notice?

Section 47 of the Act states that a landlord may issue a Notice to End Tenancy for Cause to a tenant if the landlord has grounds to do so. Section 47 of the Act states that upon receipt of a Notice to End Tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant files an application to dispute the notice, the landlord bears the burden to prove the grounds for the One Month Notice.

I find the Tenants have timely applied for dispute resolution to cancel the One Month Notice. Additionally, I find the Notice complies with section 52 of the Act, and I find the Landlord has the burden to prove that they have sufficient grounds to issue the One Month Notice.

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find the Landlord has provided sufficient evidence to establish cause to issue the One Month Notice to the Tenants and obtain an end to this tenancy.

The Landlord provided evidence of the water from the Tenants' bathroom flowing into the unit directly below on August 23, 2025. Although Tenant A.P. stated it was from the toilet pump backing-up, the Landlord retained two plumbers to determine if the toilet was not working properly. The plumbers determined the toilet was operating properly and even if it was broken in the manner claimed by the Tenants, it would not cause the

amount of water in the unit below. The damage to the unit below was significant and required remediation and repair totaling approximately \$3,200.00. Additionally, the tenant at that time occupying the unit below could not reside there while the unit was being repaired (that tenant eventually moving out for other reasons). The Landlord provided evidence from the plumber regarding his observations after examining the Tenants' toilet as well as invoices for the repair work from the restoration company. The invoices for the repair work are not inconsequential as to the amount of damage.

I do not find Tenant A.P.'s version of events the evening of August 23, 2025, plausible. The Landlord's video depicts copious amounts of water coming into the lower-level unit through the vent. The water can be seen throughout the floor on the bathroom. The property manager stated when he spoke with Tenant A.P. that evening, the Tenant admitted he fell asleep and had left the tub faucet running. The absence of any problem noted by plumbers investigating the Tenants' version of events found no basis to corroborate their position.

Furthermore, both parties agreed there had been the incident in November 2024 when water from the Tenants' tub overflowed into the unit below. The parties may have disagreed on how the water event occurred, but in any event Tenant A.P. admitted his actions had led to the water from the tub flowing into the unit below, causing damage to that unit.

Therefore, the Tenants' application to cancel the One Month Notice issued pursuant to section 47 of the Act is dismissed without leave and the Landlord's application for an order of possession is granted. I find the Landlord is entitled to an order of possession effective November 30, 2025, at 1:00 p.m.

Are the Tenants entitled to an order requiring the Landlord provide the Tenants access to the rental unit?

Section 30 of the Act states:

- (1)A landlord must not unreasonably restrict access to residential property by
 - (a)the tenant of a rental unit that is part of the residential property, or
 - (b)a person permitted on the residential property by that tenant.

Tenant N.M. states the Landlord has refused to provide her with a key fob that allows access to the front door of the rental property after turning in her prior fob to the Landlord as it had been damaged. The Landlord stated the Tenant could obtain a key fob from the property manager's office but it had not been returned to her as, based upon her providing them with all keys to the property and moving out her household goods over the span of a day and a half, the Landlord had reasonably concluded she

had vacated the unit. Having denied this during the hearing, the Landlord stated she could have a replacement key fob.

I find the Tenants have not provided sufficient evidence to establish the Landlord denied the Tenants access to their rental unit under section 30 of the Act.

Is the Landlord authorized to recover the filing fee for this application from the Tenants?

As the Landlord was successful in its application, I find the Landlord is entitled to recover the \$100.00 filing fee paid for this application under section 72 of the Act.

Conclusion

I grant the Landlord a Monetary Order in the amount of **\$100.00** pursuant to section 72 of the Act.

The Landlord is provided with this Monetary Order and the Tenants must be served with **this Order** as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced in the Provincial Court of British Columbia (Small Claims Court) if equal to or less than \$35,000.00. Monetary Orders that are more than \$35,000.00 must be filed and enforced in the Supreme Court of British Columbia.

I grant an Order of Possession to the Landlord effective **November 30, 2025 at 1:00 p.m., after service of this Order** on the Tenants. Should the Tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The Tenants' applications are dismissed in their entirety, without leave to reapply.

This decision is issued on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 27, 2025

Residential Tenancy Branch