

## **DECISION**

### **Introduction**

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

- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) under section 47 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act

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

- an Order of Possession based on the One Month Notice to End Tenancy for Cause under sections 47 and 55 of the Act
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

Tenant R.A.M.D.L. attended the hearing for the Tenant. Landlord K.K. and the Property Owner M.K. attended the hearing for the Landlord.

### **Service of the Tenant's Notice of Dispute Resolution Proceeding and the Tenant's Request to Amend an Application**

Residential Tenancy Branch records indicate that the Tenant's application developed into a participatory dispute hearing and that the Tenant was provided with the Notice of Dispute Resolution Proceeding for the participatory dispute hearing on August 7, 2025. The initial claim on the Notice requested for repairs to the rental unit or residential property. Records also indicate that the Tenant filed their request to amend their application on August 8, 2025, where the Tenant added the additional claim to dispute the Landlord's One Month Notice.

The Landlord K.K. stated that they did not receive the Tenant's Notice of Dispute Resolution Proceeding.

The Tenant testified that they served the Notice of Dispute Resolution Proceeding and the request to amend form on August 19, 2025, and left copies of the Notice and the request to amend form at the front door. The Tenant's application includes a completed

proof of service form where the form declares that the service to the Landlord K.K. was witnessed.

The Tenant did not submit that their service was witnessed by an accomplice, nor did the Tenant's witness attend the hearing to elaborate on service. I find that the Tenant has not sufficiently demonstrated service of the Notice of Dispute Resolution Proceeding, the request to amend form, and all other associated documents such as the Tenant's evidence.

While unsatisfactory service of the application materials will give cause for an arbitrator to adjourn or dismiss an application, in this instance the parties appear ready to dispute the reasons for cause associated with the One Month Notice. Therefore, I do not consider dismissing or adjourning appropriate here. Instead, under Rule 3.17, I exclude the Tenant's evidence from my consideration due to unsatisfactory service.

### **Service of the Landlord's Notice of Dispute Resolution Proceeding and Evidence**

The Landlord K.K. testified that they served the Notice of Dispute Resolution Proceeding on August 17, 2025, by registered mail. K.K. provided a tracking number and elaborated that the package was sent to the rental unit. K.K. elaborated that the package contained a thumb drive, paper copy of the letter from the municipality, and a paper copy of the One Month Notice.

The Tenant acknowledged that they received the Landlord's thumb drive, and that they received the copy of the letter from the municipality.

I am satisfied that the Landlord served their Notice of Dispute Resolution Proceeding and evidence in compliance with section 88 and 89 of the Act. I find that the Tenant has been sufficiently served with the Notice and the Landlord's evidence under section 71 of the Act.

### **Preliminary Matters**

*Residential Tenancy Branch Rules of Procedure*, Rule 6.2, states that if, in the course of the dispute resolution proceeding the Arbitrator determines that it is appropriate to do so, the Arbitrator may sever or dismiss the unrelated disputes contained in a single application with or without leave to apply.

Aside from the application to cancel the Notice to End Tenancy, I am exercising my discretion to dismiss these issues identified in the application with leave to reapply as these matters are not related. Leave to reapply is not an extension of any applicable time limit.

The following issues are dismissed with leave to reapply:

- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act

## **Issues to be Decided on**

Should the One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the recover of the filing fee?

## **Background and Evidence**

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on November 27, 2014. Parties agreed that the amount of monthly rent is in the amount of \$950.00, due on the first day of the month, the tenancy is ongoing, and that the rental unit is a basement suite on the Landlord M.K.'s property.

The Landlord K.K. testified that they served the Tenant with the One Month Notice on June 29, 2025, by delivering the Notice to the Tenant in person. A copy of the One Month Notice is available in the Landlord's evidence, it is in the standard form, it states the name and address of the Tenant, the address of the rental unit, the Landlord's address, the effective date provided is August 1, 2025, it is signed and dated by the Landlord on June 29, 2025. The reason for cause listed on the Notice is the rental unit must be vacated to comply with a government order, where the Landlord states the details on the Notice - "city has deemed basement suite as illegal and it needs to be vacated to bring to code and meet city by-laws."

The Landlord K.K. submitted a letter addressed to the Landlord dated June 9, 2025 (the Letter), the Letter is from from the municipality city hall planning and development office. K.K. elaborated that the municipality by-law staff sent the Letter after inspecting the rental unit. K.K. argued that the Letter orders the Landlord comply with one of two options to comply with local by-laws and bring the rental unit and the residential property up to code.

A copy of the Letter is available in the Landlord's evidence, I have reviewed the Letter in its entirety.

The Tenant argued that they have complied with the tenancy agreement, and that the Landlord's noncompliance with the local by-laws is not the Tenant's responsibility. The Tenant testified that they do not believe they need to vacate because the other basement suite at the rental property is the suite breaching the by-laws.

## **Analysis**

## **Should the One Month Notice be cancelled? If not, is the Landlord entitled to an Order of Possession?**

Section 47 of the Act permits a landlord to end a tenancy by giving a one month notice to end tenancy for cause. One of the reasons for cause, and also the reason in dispute for the Landlord's application, cause listed under section 47(1)(k) of the Act – the rental unit must be vacated to comply with an order of a federal, provincial, regional or municipal government authority.

In this case, I am satisfied that the Landlord K.K. and the Property Owner M.K. qualify as landlords as defined under section 1 of the Act, and that they had authority to serve a notice under section 47 of the Act. I am also satisfied that the parties share an implicit tenancy agreement and that both parties are aware of the terms of the tenancy agreement.

Section 47(4) of the Act provides a tenant the right to dispute a notice served under this section within 10 days after the date the tenant receives the notice.

Section 47(5) of the Act states that if a tenant who has received a notice under this section does not make an application for dispute resolution, the tenant is (a) conclusively presumed to have accepted the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit by that date.

In this case, both applications and both parties indicate that the One Month Notice was served and received on June 29, 2025. Based on this date, the deadline to dispute One Month Notice was July 9, 2025.

Residential Tenancy Branch records indicate that the earliest instance where the Tenant filed a dispute against the Landlord's One Month Notice was on August 8, 2025. The Tenant did not file an application to dispute the One Month Notice within 10 days of July 9, 2025.

Although the Tenant filed an application on an issue not related to the One Month Notice on July 8, 2025, I will emphasize this is a separate claim seeking relief distinctly differently to the One Month Notice and therefore must not be considered as the reference date for when the dispute regarding the One Month Notice was filed.

Section 55(2)(b) of the Act states that a landlord may request an order of possession of a rental unit by making an application for dispute resolution if a notice to end tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

As explained above, the time for making an application to dispute the Landlord's One Month Notice expired on July 9, 2025, and therefore I find that the Tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of

the One Month Notice, August 1, 2025. The Tenant was required to vacate by August 1, 2025, the effective date of the Notice.

A notice served under section 47 of the Act must comply with section 52 of the Act for form and content. I have examined the Landlord's One Month Notice, and I find that it complies with section 52 of the Act.

I uphold the Landlord's One Month Notice dated June 29, 2025.

The Tenant's application to cancel the One Month Notice is dismissed, without leave to reapply. The Landlord's application requesting for an Order of Possession is granted.

**Is the Landlord entitled to the recover of the filing fee?**

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

**Conclusion**

The Tenant's application to cancel the One Month Notice is dismissed, without leave to reapply. The Landlord's One Month Notice is upheld.

The Landlord's application for an Order of Possession based on the One Month Notice is granted.

The Landlord is granted an Order of Possession effective seven days after service of the Order. Should the Tenant(s) or anyone 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 Landlord's application for the recovery of the \$100.00 filing fee is granted.

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

Dated: October 2, 2025

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Residential Tenancy Branch