DECISION

Introduction

This cross-application hearing originally convened on October 28, 2025 and was adjourned to November 10, 2025 in an Interim Decision dated October 28, 2025 (the Interim Decision). This Decision should be read in conjunction with the Interim Decision. This cross- application hearing dealt with the Tenant's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- cancellation of the Landlord's 10 Day Notice to End Tenancy for Unpaid Rent (10 Day Notice) and an extension of the time limit to dispute the 10 Day Notice under sections 46 and 66 of the Act
- cancellation of the Landlord's One Month Notice to End Tenancy for Cause (One Month Notice) and an extension of the time limit to dispute the One Month Notice under sections 47 and 66 of the Act
- a Monetary Order for the cost of emergency repairs to the rental unit under sections 33 and 67 of the Act
- a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- an order for the Landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- an order for the Landlord to provide services or facilities required by law under section 27 of the Act
- an order requiring the Landlord to return the Tenant's personal property under section 65 of the Act
- an order requiring the Landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act

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

- an Order of Possession pursuant a One Month Notice to End Tenancy for Cause under sections 55 and 47 of the Act

Service of Notice of Dispute Resolution Proceeding (Proceeding Package) and Evidence

In the Interim Decision the Tenant was ordered to serve the Landlord with the Proceeding Package and supporting evidence by November 3, 2025. Both parties agree that the Tenant did not serve the Landlord with the Proceeding Package. As the Tenant did not serve the Landlord with the Proceeding Package in accordance with the Interim Decision, I dismiss the Tenant's application with leave to reapply. Leave to reapply is not an extension of any applicable limitation period.

The Tenant testified that they served the Landlord with their evidence on November 3, 2025 by leaving it in a drop box at the rental building. The Landlord's property portfolio manager (the Manager) testified that the Tenant informed the Landlord that they dropped off their evidence on November 3, 2025 and that the Landlord informed the Tenant that it was not received as the drop box is not the Landlord's address for service. Both parties agree that the Tenant then provided their evidence again in person to the Landlord's address for service on November 4, 2025. The Manager testified that the original evidence package from the Tenant was later found and the evidence package that was served to the correct address for service was received on November 4, 2025.

I find that while the Landlord received the Tenant's evidence on November 4, 2025, rather than on November 3, 2025, as ordered, I find that the slight delay has not prejudiced the Landlord as the delay in serving was minimal. I accept the Tenant's evidence for consideration.

The Landlord submitted additional evidence to the RTB on November 5, 2025 and requested it be considered if the Tenant's evidence was accepted for consideration. The Tenant confirmed receipt of same and agreed to its consideration. As the Tenant did not object to the Landlord's late evidence I accept it for consideration. The volume of the additional evidence was minimal, and I find that the Tenant is not prejudiced by its consideration.

As the Landlord's application and evidence were properly served, as stated in the Interim Decision, the Landlord's application will proceed in this hearing. I note that both parties agree that the Landlord has not served the Tenant with a 10 Day Notice to End Tenancy so it is unnecessary for me to consider if the Landlord is entitled to an order of possession under sections 46 and 55 of the Act.

Issues to be Decided

Is the Landlord entitled to an Order of Possession pursuant to sections 47 and 55 of the Act?

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 rent is $506.00 per month due on the first day of each month and that the Tenant did not pay the Landlord a security deposit.

The Landlord testified that on August 26, 2025, the One Month Notice was served by attaching it to the Tenant's door. The Tenant confirmed receipt of the notice and agreed with the date of service. The One Month Notice was entered into evidence, is signed by the Landlord, is dated August 25, 2025, gives the address of the rental unit, states that the effective date of the notice is September 30, 2025, is in the approved form, #RTB-33, and states the following grounds for ending the tenancy:

- Tenant or a person permitted on the property by the tenant has:
  - significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
  - put the landlord's property at significant risk.
- Breach of material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so;

The Details of Cause section of the Notice states:

> Tenant was informed in May 2025 of a scheduled date of an Asbestos Abatement Project in their unit, including the Scope of Work and the requirement to vacate their unit during the project to comply with safety protocols. The tenant verbally agreed to vacate the unit during the abatement in May 2025. On the first day of the project, the tenant interrupted the abatement team and called police alleging the contractor assaulted them. Police attended, and after accessing the situation and to avoid further conflict, requested the project be shut down so the tenant could return to the unit. This violated WorkSafe BC rules and regulations as the wall was open and asbestos exposed. To resolve the situation and proceed with the necessary work, BC Housing provided detailed letters and an agreement with options of accommodation requesting the tenant respond by August 21, 2025. The tenant did not sign and return the agreement and is not cooperating. The tenant has responded with accusatory emails and insists there is no need for them to vacate the unit. This refusal has created a serious health and safety risk, not only for the tenant but other tenants in the building. The landlord has exhausted all options to resolve this with the tenants compliance and is therefore issuing a Notice to End Tenancy for Cause as per the tenants tenancy agreement and the RTA for the tenants non-compliance and their obstruction of the landlords right to repair and maintain.

The Manager testified that the One Month Notice was issued due to the Tenant's noncompliance with the asbestos abatement project scheduled for the bathroom. The Manager stated that discussions about the project began in May 2025. On May 13, 2025, the Landlord met with the Tenant to discuss the scope of work and the Tenant agreed to vacate the rental property from 8:00 a.m. to 4:00 p.m. while the work was being completed. A summary of the May 13, 2025 verbal agreement was provided to

the Tenant in a letter dated May 29, 2025. The letter was entered into evidence and states:

> During our conversation, we discussed the following:
> 1. **Maintenance** - assessed what was wrong with the bathroom and what needs to be done to repair it
> 2. **Construction** -the time frame of the remediation and repair. The fact the bathtub will be taped off and unusable for the duration of the repair
> 3. **Contractors** -time line: once the project starts it will be maximum 10 days to completion.
> 4. **Use of washroom in the hallway-we** will allow you to maintain access to the hallway bathroom during construction
> 5. **Offer to use respite unit at Evergreen Terrace** -there is a unit at evergreen terrace that is vacant and is an option for you to reside in for the duration of the project should you choose.

The Manager testified that on July 24, 2025, the contractor attended the unit to begin work. The Manager testified that the Tenant had verbally agreed to vacate the unit during work hours and return at 4:00 p.m. However, the Tenant returned at 12:00 p.m., asked the contractor to leave, and called the police alleging that the contractor assaulted them. The police attended and requested the contractor to halt the project. The contractor secured the bathroom and ceased work for the day. This incident was documented in an internal report submitted by the building manager and the contractor.

The report stated that the Tenant attempted to enter the unit with a large electric mobility aid, became verbally aggressive, and refused to allow the contractor to continue the work. The contractor described the unit as heavily cluttered and stated that the work area was obstructed. The contractor and police agreed to seal the bathroom and suspend the project.

Following the incident, the Landlord sent letters to the Tenant on July 25 and August 5, 2025, requesting contact to reschedule the work. The July 25, 2025 letter stated that the unit was unsafe for occupancy due to the exposed asbestos and requested the Tenant to relocate temporarily. The August 5 letter offered a hotel stay or relocation to another unit and reiterated the need to vacate the unit for up to 2 weeks.

The Manager testified that on August 14, 2025, the Landlord sent a formal letter and vacate agreement. The letter stated that the unit must remain vacant during contractor hours from 8:00 a.m. to 4:00 p.m. due to safety requirements. The Tenant was offered alternative accommodations, including a hotel stay with meal and taxi allowances or relocation to another unit in the building. The Tenant was also informed that the Landlord would cover hydro costs during the project. The Tenant did not respond to the agreement by the deadline of August 21, 2025.

The Landlord testified that the Tenant did not dispute the notice within the 10-day period and only filed on September 29, 2025, which was 24 days late. The Landlord stated that the tenancy is for independent living and that the Tenant’s needs may exceed what the

housing program can support. Both parties agree that since July 24, 2025 the Tenant's bathroom has been taped up and unusable. Both parties agree that the Tenant has access to a bathroom on his floor.

The Tenant testified that there was no agreement to vacate the unit. The Tenant stated that the building is slated for demolition and the asbestos issue has existed for several years. The Tenant disputed the Landlord's claim that the project required them to vacate. The Tenant testified that they are severely ill and bedridden, with multiple disabilities and medical conditions, including cancer and a broken neck. The Tenant stated that they cannot leave the unit for extended periods and that the offers made by the Landlord were not physically feasible and he would not have agreed to same. The Tenant entered into evidence a letter from his doctor dated September 9, 2025 which states:

> [The Tenant] has been a patient of mine for many years. This unfortunate gentleman has multiple medical conditions and a severe disability. He suffers from daily severe pain which requires medication. His mobility is highly impaired because of his pain. He is often bed ridden. He has had multiple surgeries to treat some of these conditions and recently has had treatments for cancer. He requires multiple interventions and treatments such as injections to manage his pain and regular consultant assessments. He takes multiple daily medications but gets great benefit from daily medical cannabis. He requires the use of a mobility aid electric vehicle on a daily basis. Unfortunately Mr. Dean's disability is severe and will be permanent. His diagnoses include: Prostate cancer, coronary artery disease, cerebral atherosclerosis, severe bilateral knee osteoarthritis, cervical and lumbar spondylosis and degenerative disc disease, multiple past physical injuries and posttraumatic arthritis in many joints, and asthma.

The Tenant entered into evidence another doctor's letter dated October 10, 2025 which states:

> [The Tenant] suffers from multiple serious medical problems. He is very debilitated. He certainly is incapable of not being able to pack his belongings or move his household belongings. He will need full support to do this.

The Tenant's application for dispute resolution states that he filed to dispute the One Month Notice late because he is bedridden for 16-18 hours every day and is too ill to meet timelines laid out by the RTA and Landlord.

The Manager disputed the severity of the Tenant's disability and provided evidence showing the Tenant using his mobility bike and leaving the rental property.

The Tenant disputed the Landlord's evidence, stating that it was discriminatory and questioned their disability. The Tenant submitted emails and voice messages asserting that the contractor was aggressive, that the abatement could be completed without vacating the unit, and that the Landlord failed to accommodate their disability.

The Landlord did not submit any documents from an asbestos abatement company or their contractor stating that vacant possession is required for the repair work. The Landlord did not submit any evidence from Worksafe BC.

Analysis

Is the Landlord entitled to an Order of Possession pursuant to sections 47 and 55 of the Act?

Based on the testimony of both parties I find that the One Month Notice was posted on the Tenant's door on August 26, 2025. In accordance with section 90 of the Act, I find that the Tenant was deemed served with it on August 29, 2025. The Tenant filed to dispute the One Month Notice on September 29, 2025. The effective date on the One Month Notice is September 30, 2025.

Section 66 of the *Act* states that an arbitrator may extend a time limit established by this Act only in exceptional circumstances. According to Policy Guideline #36, the word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an arbitrator to extend that time limit. The word "exceptional" implies that the reason for failing to do something at the time required is very strong and compelling. Furthermore, as one Court noted, a "reason" without any force of persuasion is merely an excuse. Thus, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

Based on the letters from the Tenant's doctor, I am satisfied that the Tenant suffers from several serious medical afflictions and is often bedridden. I find that "often bedridden" does not mean "always bedridden", thus explaining the Landlord's evidence showing the Tenant leaving the rental property and using his mobility aid. I accept that the medical afflictions suffered by the Tenant impacted his ability to meet the required filing deadline. I find that the Tenant's many medical ailments meet the definition of exceptional circumstances. I extend the timeline for the Tenant to dispute the One Month Notice under section 66 of the Act.

The Landlord served a One Month Notice to End Tenancy for Cause on August 26, 2025. The notice was entered into evidence and complies with the requirements of section 52 of the Act. It is in the approved form (RTB-33), is signed and dated August 25, 2025, and states the effective date of September 30, 2025. The grounds cited include interference with the Landlord, jeopardizing health and safety, placing the Landlord's property at risk, and breach of a material term of the tenancy agreement.

The Manager testified that the notice was issued due to the Tenant's noncompliance with an asbestos abatement project. The Landlord stated that the Tenant had verbally agreed to vacate the unit during contractor hours. However, the summary of the May 13, 2025 meeting, entered into evidence as a letter dated May 29, 2025, does not state that the Tenant agreed to vacate the unit. It outlines the scope of work and offers

access to a hallway bathroom and a respite unit but does not confirm a requirement for daily vacancy. I find that the Landlord has not proved, on a balance of probabilities that the Tenant agreed to vacate the rental property for any period of time.

The Landlord did not submit any documentation from the asbestos abatement contractor or from WorkSafe BC confirming that vacant possession was required to complete the work. In the absence of such documentation, the Landlord has not established that the abatement could not proceed with the Tenant in residence.

The Residential Tenancy Act requires that the Landlord prove the grounds for ending the tenancy. In this case, the Landlord has not provided sufficient evidence to establish that the Tenant's conduct significantly interfered with their right to maintain the rental property under section 47(1)(d)(i) of the Act. I find that the Landlord has failed to prove that the required work could not be completed with the Tenant in the unit. I find that the Landlord has failed to prove that the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlord under section 47(d)(ii) of the Act by remaining in the rental unit while repairs are completed. I find that the Landlord has failed to prove that the Tenant put the Landlord's property at significant risk under section 47(d)(iii) of the Act by remaining in unit for the required repairs as no documentary evidence from a reputable source stating same such as from an asbestos professional or WorkSafe BC were entered into evidence.

Section 47(1)(h) of the *Act* states that a landlord may end a tenancy by giving notice to end the tenancy if the tenant has failed to comply with a material term, and has not corrected the situation within a reasonable time after the landlord gives written notice to do so.

Residential Tenancy Policy Guideline #8 states in part:

> To end a tenancy agreement for breach of a material term the party alleging a breach – whether landlord or tenant – must inform the other party in writing:
>
> • that there is a problem;
> • that they believe the problem is a breach of a material term of the tenancy agreement;
> • that the problem must be fixed by a deadline included in the letter, and that the deadline be reasonable; and
> • that if the problem is not fixed by the deadline, the party will end the tenancy.
>
> Where a party gives written notice ending a tenancy agreement on the basis that the other has breached a material term of the tenancy agreement, and a dispute arises as a result of this action, the party alleging the breach bears the burden of proof.

I find that none of the letters entered into evidence by the Landlord contain the required information as set out above in Policy Guideline #8 and so the Landlord is not permitted to end the tenancy under section 47(1)(h) of the Act.

In accordance with my above findings, I find that the Landlord has not proven the grounds set out in the One Month Notice. The One Month Notice is therefore cancelled.

Conclusion

The Landlord's application for an Order of Possession under section 47 of the Act is dismissed without leave to reapply.

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: November 10, 2025

Residential Tenancy Branch