

## **DECISION**

### **Introduction**

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- an order pursuant to ss. 62(3) and 47 cancelling a One-Month Notice to End Tenancy for Cause signed on November 13, 2025 (the “One Month Notice”) and an order under s. 66(1) for more time to do so; and
- return of the filing fee pursuant to s. 72(1).

The Landlord files its own application, seeking the following relief under the *Act*:

- an order of possession pursuant to s. 55(2)(b) after issuing the One Month Notice; and
- return of the filing fee pursuant to s. 72(1).

K.S. attended as the Tenant. J.C. attended as the Landlord’s agent.

The parties affirmed to tell the truth during the hearing. I reminded the parties of Rule 6.11 of the Rules of Procedure, which prohibits them from recording the hearing themselves, and noted that the hearing was automatically recorded by the Residential Tenancy Branch.

### **Service of the Application and Evidence**

The parties advise that they served one another with their respective application materials. Both sides acknowledge receipt of the other sides materials without issue. Accepting this, I find under s. 71(2) of the *Act* that both sides application materials were sufficiently served on each other.

### **Issues to be Decided**

- 1) Should the One Month Notice be cancelled? If not, is the Landlord entitled to an order of possession?
- 2) Is either party entitled to the return of their filing fee?

## Evidence and Analysis

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

### ***General Background***

The parties confirm the following details with respect to the tenancy:

- The Tenant moved into the rental unit on November 1, 2023.
- Rent of \$2,400.00 is due on the first day of each month.
- A security deposit of \$1,200.00 was paid by the Tenant.

I have been given a copy of the written tenancy agreement.

### ***1) Should the One Month Notice be cancelled? If not, is the Landlord entitled to an order of possession?***

Under s. 47(1) of the *Act*, a landlord may end a tenancy for cause by giving at least one month's notice to the tenant.

Upon receipt of a notice to end tenancy issued under s. 47(1) of the *Act*, a tenant has 10 days to dispute the notice as per s. 47(4). If a tenant files to dispute the notice, the onus of showing the notice is enforceable rests with the respondent landlord.

### ***Service of the One Month Notice and Form and Content***

The Landlord's agent testified that the Tenant was served with the One Month Notice by way of email sent on November 13, 2025. The tenancy agreement notes at clause 14 of the addendum that email is an approved method of service. The Tenant acknowledges receipt of the One Month Notice, saying he received it on November 15, 2025.

The Tenant's evidence contains a copy of the email sent by the Landlord's agent on November 13, 2025 in which the One Month Notice was served with a copy of the Tenant's rent ledger. The Tenant responded on November 14, 2025 indicating he would like the matter to be heard by the Residential Tenancy Branch.

I accept that the One Month Notice was served on the Tenant by way of email sent on November 13, 2025 in accordance with s. 43(1) of the *Act*. This is confirmed by the tenancy agreement, email sent by the Landlord's agent on November 13, 2025, as well as the parties testimony.

The Tenant testified that he received the One Month Notice on November 15, 2025. I find that this is incorrect. The email correspondence in his evidence confirms he replied to the Landlord's agent on November 14, 2025 indicating he would like to dispute the One Month Notice, thereby meaning he received it on November 14, 2025, at the latest, not on November 15, 2025 as testified to by him at the hearing.

I find that the One Month Notice was received by the Tenant on November 14, 2025 as confirmed by the email response he sent to the Landlord's agent after the notice was sent to him.

As per s. 47(3) of the *Act*, all notices issued under s. 47 must comply with the form and content requirements set by s. 52 of the *Act*.

I have reviewed the One Month Notice. I find that it complies with the formal requirements of s. 52 of the *Act*. It is signed and dated by the Landlord, states the address for the rental unit, states the correct effective date, sets out the grounds for ending the tenancy, and is in the approved form (RTB-33).

Though not raised by the Tenant at the hearing, his application argues that the postal code in the One Month Notice is incorrect. In the One Month Notice provided, there is a circled note indicating the rental unit address postal code is incorrect. Review of the tenancy agreement confirms that an "R" was used in the postal code in the One Month Notice rather than a "W".

I find that the slight issue in the One Month Notice is nothing more than a typographic error. There is no doubt that the One Month Notice was issued to the Tenant and speaks to his tenancy at the rental unit. To the extent a problem exists, I would correct the One Month Notice under s. 68(1) of the *Act* to reflect the postal code listed in the tenancy agreement. I find that the Tenant knew the information was incorrect and that it would be reasonable to correct the typographic error considering there is no doubt the Tenant knew the One Month Notice was issued to him for his occupancy in his rental unit.

#### *Request for More Time to Dispute the One Month Notice*

Review of the Tenant's application shows he filed to dispute the One Month Notice on December 31, 2025, which is the effective date of the notice.

Since the One Month Notice was received by the Tenant on November 14, 2025, I find that the Tenant failed to dispute the One Month Notice within the 10-day period granted under s. 47(4) of the *Act*.

Under s. 66(1) of the *Act*, I may extend a time limit imposed by the *Act*, but only in exceptional circumstances. Under s. 66(3) of the *Act*, a time extension cannot be granted if the request to extend a time limit occurs after the effective date of the notice to end tenancy.

Policy Guideline 36 provides guidance on what may be considered exceptional circumstances and states the following:

### **Exceptional Circumstances**

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.

Some examples of what might not be considered "exceptional" circumstances include:

- the party who applied late for arbitration was not feeling well
- the party did not know the applicable law or procedure
- the party was not paying attention to the correct procedure
- the party changed his or her mind about filing an application for arbitration
- the party relied on incorrect information from a friend or relative

Following is an example of what could be considered "exceptional" circumstances, depending on the facts presented at the hearing:

- the party was in the hospital at all material times

The evidence which could be presented to show the party could not meet the time limit due to being in the hospital could be a letter, on hospital letterhead, stating the dates during which the party was hospitalized and indicating that the party's condition prevented their contacting another person to act on their behalf.

The criteria which would be considered by an arbitrator in making a determination as to whether or not there were exceptional circumstances include:

- the party did not wilfully fail to comply with the relevant time limit
- the party had a bona fide intent to comply with the relevant time limit
- reasonable and appropriate steps were taken to comply with the relevant time limit
- the failure to meet the relevant time limit was not caused or contributed to by the conduct of the party
- the party has filed an application which indicates there is merit to the claim
- the party has brought the application as soon as practical under the circumstances

The Tenant argued that he was led to believe by the Landlord's agent that all he needed to do to dispute the One Month Notice was to respond indicating his intent to do so. As noted above, the Tenant replied on November 14, 2025 after receiving the One Month

Notice that he wished the issue heard by the Residential Tenancy Branch. The Tenant says he has never had to dispute a notice to end tenancy before.

In brief, I find that the Tenant is not entitled to a time extension under s. 66(1) of the *Act* since he has failed to demonstrate exceptional circumstances are present.

The Tenant has provided the email from the Landlord's agent email in which the One Month Notice was served on November 13, 2025, which stated the following:

Please see attached 30 days notice to end tenancy for repeatedly late rent. I have attached your rental ledger too, so you can see the repeated late rent payments.

Have a great evening,

The Tenant's evidence also has an email sent to the Tenant from another employee at property management company on November 11, 2025. I will not reproduce the entire email, though I highlight the following passage:

Option 2) RTB 33 - 30 day notice for repeated late payment of rent. Please find notice attached. The process for this is that we will issue a 30 day notice for repeated late rent, You of course have the chance to challenge this under the Residential Tenancy Act. That being said I would like you to be aware that there are some charges that are insured with the notice. We will be requesting the \$200 filing fee to be added to the judgement.

The Tenant asserts, falsely in my view, that the Landlord's agents induced him to fail to meet the filing deadline imposed by s. 47(4) of the *Act*. As can be seen in the correspondence above, at no point did either agent say or imply all the Tenant had to do was contact them to tell them he wished to dispute the One Month Notice.

I further highlight that the Landlord's evidence contains email correspondence from the Landlord's agent sent to the Tenant on December 6, 2025. In it, the Landlord's agent notified the Tenant that he had not filed an application to dispute the One Month Notice with the Residential Tenancy Branch and that they were looking to arrange an end of tenancy for December 31, 2025. The Tenant responded on the same day, as well as on December 21, 2025, that he had notified them that he was challenging the One Month Notice.

It was only after the Landlord's agent explained on December 21, 2025, again, that the Tenant had not filed with the Residential Tenancy Branch that the Tenant replied with the following message:

What date did this dispute happen??

Could be an issue since you let me stay another month and I paid in time. We can bring it in front of a mediator or whatever you call the person who would make judgments on this.

Even if I were to accept the Tenant's assertion that he was led to believe by the Landlord's agent that he did not need to file with the Residential Tenancy Branch, which again I find cannot be demonstrated based on the correspondence in evidence, the Tenant's misapprehension should have been dispelled on December 6, 2025 or, at the latest, December 21, 2025. Despite being told and appearing to understand on December 21, 2025 that he would have to file with the Residential Tenancy Branch, the Tenant still failed to do so until December 31, 2025, which was also the last day he could seek a time extension under s. 66 of the *Act*.

Finally, I emphasize that the One Month Notice, which uses the standard form, includes the following information on the top of the first page:

<p><b>Tenant: This is a legal notice that could lead to you being evicted from your home</b></p> <p><b>HOW TO DISPUTE THIS NOTICE</b></p> <p>You have the right to dispute this Notice <b>within 10 days</b> of receiving it, by filing an Application for Dispute Resolution with the Residential Tenancy Branch online, in person at any Service BC Office or by going to the Residential Tenancy Branch Office at #400 - 5021 Kingsway in Burnaby. If you do not apply within the required time limit, you are presumed to accept that the tenancy is ending and must move out of the rental unit by the effective date of this Notice.</p>
--

Simply put, the plain language in the One Month Notice should have been more than sufficient information for the Tenant to know he had to file with the Residential Tenancy Branch.

I find that the Tenant has failed to demonstrate exceptional circumstances are present warranting a time extension under s. 66(1) of the *Act*. I find that his explanation that he was led astray by the Landlord's agent is false based on the correspondence in evidence. I find that, even if this were true, he should have proactively enquired on the issue, at the latest, on or about December 21, 2025 and filed sooner. Rather than doing so, he dawdled for over a week after appearing to be alive to the issue, filing on December 31, 2025.

As is clear in Policy Guideline 36, the Tenant's lack of familiarity with the law or the process is no excuse. Ultimately, I find that the Tenant's explanation for why he filed late to be nothing more than an excuse to explain his failure to take note of clear information provided to him in the One Month Notice.

I dismiss the Tenant's request for a time extension.

### Order of Possession

I find that by failing to file an application to dispute the One Month Notice within 10 days of its receipt on November 14, 2025, the Tenant has triggered s. 47(5) of the *Act*. This means that the Tenant is conclusively presumed to have accepted the end of his

tenancy based on the One Month Notice and was required to have vacated the rental unit by no later than its effective date.

Accordingly, I dismiss the Tenant's request to cancel the One Month Notice, without leave to reapply, since he filed late.

Section 55(1) of the *Act* provides that where a tenant's application to cancel a notice to end tenancy is dismissed and the notice complies with s. 52, then I must grant the landlord an order for possession. Further, a landlord may request an order of possession under s. 55(2)(b) of the *Act* where they have served a notice to end tenancy and the tenant has not disputed the notice within the prescribed time limit.

Accordingly, I grant the Landlord an order of possession given both ss. 55(1) and 55(2)(b) of the *Act* are applicable here.

Policy Guideline 54 provides guidance on when an order of possession should be made effective, suggesting 7 days is generally appropriate though certain factors may weigh toward a longer or shorter period.

In this case, I am told by the Tenant and accept that rent has been paid for February 2026. Accordingly, I make the order of possession effective for the end of the month, being February 28, 2026, since rent has been paid for February.

I wish to be clear that even had the Tenant filed his application to dispute the One Month Notice on time, I still would have enforced the One Month Notice. The Landlord has provided clear evidence of repeated late rent payments for December 2024, February 2025, March 2025, August 2025, October 2025, and November 2025.

I have been provided with notices to end tenancy for unpaid rent for each of those months listed above. Even if there was some history of payment after the first of the month, I find that after receipt of the first notice to end tenancy for unpaid rent, the Tenant could not reasonably hold the view that it was acceptable to pay rent on any day later than when it was due in his tenancy agreement, being the first. I find that waiver or estoppel would not be applicable here considering the Tenant had been put on notice multiple times that rent was unpaid if it was not paid on the first.

Further, the Tenant initially confirmed that he had been late in paying his rent, saying he was facing some financial issues that have been sorted now that he has secured employment. The Tenant's position then shifted to him saying that he would pay rent, but it was not processed in the system used by the Landlord despite having funds in his account.

The Tenant has not provided evidence to support the funds were available in his account when he attempted payment and that this was a processing error in the Landlord's system. I have not been provided correspondence between the parties where this issue was discussed either, which I would expect if it were in fact a problem.

I find the Tenant's assertion that there was a processing error lacks credibility considering his testimony on the point changed during the hearing while there is no documentary evidence to support that the months in which rent was late was caused by processing errors in the payments.

Finally, the Tenant asserted that there was an implied tenancy since the Landlord continued to accept rent payments. To be clear, the Landlord had served the One Month Notice on November 13, 2025, which had an effective date of December 31, 2025. On December 6, 2025, the Landlord's agent followed up to inform the Tenant that the tenancy would end on December 31, 2025 and filed for an order of possession on January 6, 2026, after the Tenant failed to move out. In an email dated January 3, 2026, an agent for the Landlord explicitly told the Tenant that "[u]nfortunately at this time your tenancy has ended as per the 30 day notice that you were given and did not address with the Residential Tenancy Board".

The Landlord accepted rent in December 2025 since the tenancy ended on December 31, 2025. It notified the Tenant on December 6, 2025 of its view the tenancy would end on December 31, 2025. It filed for an order of possession after the Tenant failed to move out on December 31, 2025. It accepted rent for January 2026, notifying the Tenant, however, that the tenancy ended on December 31, 2025 and that it would be seeking an order of possession. Under no circumstances would I consider the Landlord to impliedly accepted the tenancy would continue.

Again, even had the Tenant filed on time, I would have enforced the One Month Notice and granted the Landlord an order of possession.

## ***2) Is either party entitled to the return of their filing fee?***

I find that the Tenant was unsuccessful and is not entitled to his filing fee. I dismiss his claim under s. 72(1) of the *Act*, without leave to reapply.

I find that since the Landlord was successful, it is entitled to its filing fee. I order under s. 72(1) of the *Act* that the Tenant pay the Landlord's \$100.00 filing fee.

## **Conclusion**

The Tenant's application is dismissed, in its entirety, without leave to reapply.

I grant the Landlord an order of possession. The Tenant and any other occupant shall provide vacant possession of the rental unit to the Landlord by no later than **1:00 PM on February 28, 2026**.

I order that the Tenant pay **\$100.00** to the Landlord for its filing fee.

The Landlord must serve the order of possession and monetary order on the Tenant. The Landlord may enforce the order of possession at the Supreme Court of British

Columbia. The monetary order may be enforced by the Landlord at the Provincial Court of British Columbia.

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: February 6, 2026

---

Residential Tenancy Branch