



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

On September 27, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 47 of the *Residential Tenancy Act* (the “Act”) and seeking recovery of the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. The Landlord attended the hearing and L.M. attended the hearing as well, as an agent for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that the Landlord was served with the Notice of Hearing package by registered mail on September 27, 2019 and the Landlord confirmed that he received this package. Based on this undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

He also advised that he did not submit any evidence for consideration on this file.

The Landlord advised that his evidence was provided to the Tenant by being posted to his door on the same date of each letter submitted as evidence. The Tenant confirmed that he received this evidence. As service of this evidence complies with Rule 3.15 of the Rules of Procedure, I am satisfied that the Landlord’s evidence has been satisfactorily served on the Tenant, and it was considered when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 55 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that is compliant with the *Act*.

#### Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on June 1, 1999 and that the Landlord purchased the rental unit after this date. Rent is currently established at \$700.00 per month, due on the first day of each month. A security deposit of \$118.75 was also paid.

All parties agreed that the Notice was served to the Tenant by being posted on his door on September 25, 2019 and the Tenant confirmed that the Notice was received. The reasons the Landlord served the Notice are because the “Tenant or a person permitted on the property by the tenant has: significantly interfered with or unreasonably disturbed another occupant or the landlord and put the landlord’s property at significant risk.”, the “Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to: damage the landlord’s property.”, the “Tenant has not done required repairs of damage to the unit/site.”, and a “Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.” The Notice indicated that the effective end date of the tenancy was October 31, 2019.

The Landlord advised that the rental unit is a one-bedroom unit and the Tenant is operating a laundromat business out of it. He submitted that the Tenant brought in his own washing machine and installed it in the bathroom without the Landlord's consent. He stated that he asked the Tenant to remove the washing machine and he assumed that the Tenant complied. The Landlord sent a letter to the Tenant, dated August 14, 2019, advising him that he had left his washing machine unattended and it caused a leak that affected the area below the rental unit. In this letter, the Landlord ordered the Tenant to remove the washing machine immediately. As well, this letter advised the Tenant that an inspection would be conducted to ensure the washing machine was removed and to inspect for damage to the rental unit due to the flood and from years of hanging clothes to dry.

The Landlord then sent a follow-up letter, dated September 11, 2019, advising the Tenant that the washing machine has not been removed as per his August 14, 2019 letter, and that another inspection would be conducted. Finally, the Landlord sent a final letter, dated September 16, 2019, advising the Tenant that he has not responded to or complied with the previous warning letters and as a result, the Notice would be served.

He stated that the Tenant continues to do laundry in the rental unit despite being ordered to remove the washing machine, that the amount of laundry being washed and hung to dry is not consistent with belonging to one person, and that the Tenant refuses to respond to the letters or answer the Landlord's calls. He submitted that the Tenant has so many lines of laundry strung up to dry in the rental unit that it was difficult to enter the rental unit for an inspection. He also advised that the Tenant has been warned that use of the washing machine has been a breach of his tenancy and that the Landlord has had to conduct two repairs due to the damage caused. He stated that the building has full laundry facilities for use by all the residents of the building.

The Tenant confirmed that he had received the Landlord's letters from August 14, 2019 onwards. He acknowledged that there was an accident on July 24, 2019 where the washing machine hose discharged "a few litres of water" resulting in a "small leak". He stated that he stopped this as quickly as possible. When informed by the Landlord, he inspected the damage and stated that there was no evidence of a leak and that there was no damage to the ceiling or walls. He submitted that the reason the Landlord had difficulty entering the rental unit was because the carpet was old and impeded the door, not because of the lines of laundry that were hanging up. He stated that he did not "want to listen to what the Landlord asked" him to do.

The Landlord advised that the Tenant acknowledged causing the leak and that the leak was so significant that it was brought to his attention by another tenant of the building.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

In considering this matter, I have reviewed the Landlord's Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 52 of the *Act*. In reviewing this Notice, I am satisfied that the Notice meets all of the requirements of Section 52 and I find that it is a valid Notice.

I find it important to note that a Landlord may end a tenancy for cause pursuant to Section 47 of the *Act* if any of the reasons cited in the Notice are valid. Section 47 of the *Act* reads in part as follows:

### ***Landlord's notice: cause***

**47** (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

*(d) the tenant or a person permitted on the residential property by the tenant has*

*(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,*

*(iii) put the landlord's property at significant risk;*

*(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that*

*(i) has caused or is likely to cause damage to the landlord's property,*

*(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32*

*(h) the tenant*

*(i) has failed to comply with a material term, and*

*(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;*

With respect to the reasons on the Notice, the consistent and undisputed evidence is that the Tenant caused damage to the rental unit due to a flood of a washing machine that he installed in his bathroom. Further, the Landlord provided a warning letter on August 14, 2019 advising the Tenant that use of this was prohibited, to refrain from further use, and to remove the appliance. While the Tenant refutes the amount of damage this leak caused, the Landlord was only informed about the problem when another tenant of the building observed the leak. From this, I am satisfied that the damage caused was significant enough for another tenant of the building to notice. As such, I find it more likely than not that the Tenant is attempting to downplay the significance of the damage that this accident caused.

When reviewing the evidence and testimony of both parties, I am satisfied that the Tenant has been using a washing machine in the rental unit, that he installed himself without the consent of the Landlord. Furthermore, the Tenant's use of this washing machine caused damage to the property, prompting the Landlord to warn the Tenant in writing to refrain and to remove the washing machine entirely. However, the Tenant ignored these letters and continued to use the washing machine contrary to the Landlord's requests.

Based on the totality of the evidence before me, I am satisfied that the Tenant has been using an appliance that was not approved by the Landlord, that he has caused damage to the rental unit through the use of this appliance, and that he refuses to comply with the Landlord's written requests to refrain from using the washing machine and to remove it from the rental unit. Consequently, I am satisfied that the undisputed evidence of the Tenant's actions is sufficient to justify service of the Notice under the reason that the "Tenant or a person permitted on the property by the tenant has: significantly interfered with or unreasonably disturbed another occupant or the landlord and put the landlord's property at significant risk."

As such, I dismiss the Tenant's Application, and pursuant to Section 55 of the Act, I find that the Landlord is entitled to an Order of Possession that takes effect at **1:00 PM on December 31, 2019** after service of this Order on the Tenant. The Landlord will be given a formal Order of Possession which must be served on the Tenant. If the Tenant does not vacate the rental unit at **1:00 PM on December 31, 2019** after service of the Order, the Landlord may enforce this Order in the Supreme Court of British Columbia.

As the Tenant was not successful in his claim, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The Tenant's Application is dismissed without leave to reapply and the Landlord is provided with a formal copy of an Order of Possession effective at **1:00 PM on December 31, 2019** after service on the Tenant. Should the Tenant 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.

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: December 11, 2019

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Residential Tenancy Branch