



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REVELSTOKE RENTALS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FFT

### Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause, dated August 20, 2020 ("1 Month Notice"), pursuant to section 47; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord's agent ("landlord") and the two tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that he was the owner of the rental unit and that he had permission to represent the landlord company named in this application. This hearing lasted approximately 43 minutes.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package and the tenants confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application and the tenants were duly served with the landlord's evidence.

The landlord testified that the tenants were personally served with the landlord's 1 Month Notice on August 20, 2020. The tenants confirmed receipt in person on the above date. In accordance with section 88 of the *Act*, I find that the tenants were duly served with the landlord's 1 Month Notice on August 20, 2020.

### Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Are the tenants entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the tenants' claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on April 30, 2020. Monthly rent in the amount of \$2,300.00 is payable on the first day of each month. A security deposit of \$1,150.00 was paid by the tenants and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing. The tenants continue to reside in the rental unit.

The landlord seeks an order of possession based on the 1 Month Notice. A copy of the 1 Month Notice was provided for this hearing. Both parties agreed that the notice indicates an effective move-out date of October 1, 2020, and the reasons indicated are:

- *Tenant or a person permitted on the property by the tenant has:*
  - *put the landlord's property at significant risk.*
- *Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:*
  - *jeopardize a lawful right or interest of another occupant or the landlord.*

The landlord claimed that the tenants failed to move their uninsured and unregistered vehicle off the landlord's property for a period of 10 days from August 10 to August 20, 2020. He stated that his agents took a photograph of the tenants' vehicle with the license plate and no decal to show the insurance. He maintained that he sent emails to the tenants between the above dates and asked them on August 17, 2020 and August 18, 2020 to move their vehicle off the landlord's property by August 20, 2020. He agreed that the tenants moved their vehicle off the landlord's property and on to the road on August 20, 2020.

The landlord stated that the tenants' behaviour violated the addendum to the tenancy agreement, and it risked the landlord's property by making him liable if anyone got hurt, due to the tenants' unregistered and uninsured vehicle. He testified that his insurance was different because he is American and not a B.C. or Canadian resident. He said that the tenants only moved their vehicle once they were notified by the landlord, and he did not know how long their unregistered and uninsured vehicle was on the landlord's

property prior to that. He explained that the tenants were using a fake license plate because he checked with the police and the provincial auto insurance company, and they both confirmed that the license plate did not match the vehicle and the vehicle was not insured or registered. He confirmed that the police removed the tenants' license plate on September 4, 2020, when the vehicle was on the road. He said that the tenants engaged in fraudulent, misleading and illegal behaviour and he was concerned about their future behaviour if they were capable of using a fake license plate. He stated that one of the tenants said that his father and sister were lawyers and the landlord took this as a threat, which the tenants claimed was not meant as a threat.

The tenants agreed that they received the landlord's emails regarding their vehicle. They claimed that they work long 12-hour shifts, 7 days per week. They stated that the landlord requested that they remove their vehicle from his property on August 18 and they did so by his deadline of August 20, 2020. They maintained that they accidentally used the wrong license plate on their vehicle because one of the tenants owned two of the same type of vehicle and got the license plates mixed up. They testified that the police did not remove their license plate, but they did it themselves and got the vehicle insured and registered, put on a new license plate, and sold it. They said that they now have a different vehicle that is now insured and registered and they park it on the road because they are scared that the landlord will try to evict them again if they park it in the driveway of the rental property. The landlord claimed that the tenants park that vehicle in the driveway of his property, not on the road. The tenants maintained that the landlord just wants to evict them. They stated that the one incident and the short time period during which they had the insurance issue with their vehicle was not so serious as to warrant an eviction.

### Analysis

According to subsection 47(4) of the *Act*, tenants may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenants received the notice. The tenants received the 1 Month Notice on August 20, 2020 and filed their application to dispute it on August 21, 2020. Therefore, they were within the ten-day time limit to dispute the 1 Month Notice. The onus shifts to the landlord to prove the reasons on the notice based on a balance of probabilities.

Section 47(1) of the *Act* states that a landlord may only end a tenancy if at least one of the two reasons indicated on the 1 Month Notice applies.

I find that the landlord failed to show that the tenants engaged in illegal activity. The landlord did not provide proof of any criminal charges or convictions against the tenants. The landlord provided a police file number, without any police report, as I do not have access to the police database to access the file number. The landlord stated that he made a request for the police file but that it would take three to six months to obtain, so he could not provide it for this hearing. In any event, the landlord claimed that the police removed the tenants' license plate, he did not indicate that any criminal charges were laid, or any convictions were made against the tenants.

I find that the landlord failed to show that the tenants put the landlord's property at *significant* risk. I find that 10 days, from the date the landlord notified the tenants about their vehicle on August 10, 2020, until they moved their car off the landlord's property on August 20, 2020, is a short period of time, rather than a long pattern of behaviour, in order to justify the above reason on the 1 Month Notice. I find that the tenants have now resolved the issue by registering and insuring their vehicle. I find that the landlord's concern regarding possible future behaviour of the tenants, based on their past behaviour, does not justify the above reason on the 1 Month Notice.

For the above reasons and on a balance of probabilities, I find that the landlord failed to provide sufficient evidence for both reasons on the 1 Month Notice. Accordingly, the tenants' application to cancel the 1 Month Notice is allowed. The landlord is not entitled to an order of possession. The landlord's 1 Month Notice, dated August 20, 2020, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

As the tenants were successful in this application, I find that they are entitled to recover the \$100.00 filing fee from the landlord.

### Conclusion

The tenants' application is allowed. The landlord is not entitled to an order of possession. The landlord's 1 Month Notice, dated August 20, 2020, is cancelled and of no force or effect. This tenancy continues until it is ended in accordance with the *Act*.

I order the tenants to reduce their future monthly rent payable to the landlord for this rental unit and this tenancy, by a one-time reduction of \$100.00, in full satisfaction of the monetary award for the filing fee.

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: October 06, 2020

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Residential Tenancy Branch