



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlord under the Residential Tenancy Act (the Act), seeking:

- An Order of Possession for the rental unit based on an uncontested One Month Notice to End Tenancy for Cause (the One Month Notice); and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. Neither the Tenant nor an agent acting on their behalf attended. The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondent must be served with a copy of the Application and Notice of Hearing. As neither the Tenant nor an agent for the Tenant attended the hearing, I confirmed service of these documents as explained below.

The Landlord testified that their documentary evidence and the Notice of Dispute Resolution Proceeding Package, including a copy of the Application and the Notice of Hearing, were personally served on the Tenant on September 12, 2020. Although the Landlord stated that they have video evidence of this service, a copy of the video was not submitted for my review and consideration. Based on the affirmed and uncontested testimony of the Landlord, I am satisfied on a balance of probabilities that the Tenant was personally served with the above noted documents in accordance with the Act and the Rules of Procedure on September 12, 2020.

Based on the above and pursuant to rule 7.3 of the Rules of Procedure, the hearing therefore proceeded as scheduled despite the Tenant's absence.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the Landlord, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

#### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to recovery of the filing fee?

#### Background and Evidence

The tenancy agreement in the documentary evidence before me, signed by the parties on March 1, 2020, states that the month to month tenancy commenced on March 1, 2020, that rent in the amount of \$875.00 is due on the first day of each month, and that a \$435.00 security deposit was paid. During the hearing the Landlord confirmed that these are the correct terms for the tenancy agreement and that they still hold the Tenant's \$435.00 security deposit in trust.

The Landlord stated that the One Month Notice in the documentary evidence before me was personally served on the Tenant on July 28, 2020, and submitted a witnessed and signed proof of service document in support of this testimony.

The One Month Notice, dated July 28, 2020, has an effective date of August 31, 2020, and states the following grounds for ending the tenancy:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely

affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property; and

- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

Under details of cause, the Landlord wrote the following:

**DETAILS OF CAUSE(S):** Include any dates, times, people or other information that says who, what, where and when caused the issue. The RTB may cancel the notice if details are not described. Attach separate sheet(s) if necessary (signed and numbered).

\*neighbouring tenants have called/texted me on many occasions uncomfortable and scared regarding your guests activities. They believe drug dealing is happening, people sleeping in your carpet, attempted break ins from your guests, broken windows.

The Landlord stated that although the Tenant has no paid rent for July, August, September or October of 2020, and has not disputed the One Month Notice, they still reside in the rental unit. As a result, the Landlord sought an Order of Possession for the rental unit as soon as possible. The Landlord also sought recovery of the \$100.00 filing fee from the \$435.00 security deposit held by them in trust.

No one appeared on behalf of the Tenant to provide any evidence or testimony for my consideration, despite my finding earlier in this decision that the Tenant was personally served with the Notice of Hearing and a copy of the Application on September 12, 2020.

### Analysis

Based on the uncontested documentary evidence and affirmed testimony before me from the Landlord, I am satisfied that a tenancy under the Act over which the Branch has jurisdiction exists, and that the One Month Notice was personally served on the Tenant on July 28, 2020. I am also satisfied that the Tenant has not disputed the One Month 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 within 10 days after receipt of the notice, as set out in subsection (4), the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

I am satisfied that the One Month Notice complies with section 52 of the Act and as the effective date of the One Month Notice has passed, I therefore grant the Landlord an

Order of Possession for the rental unit effective two days after service on the Tenant, pursuant to section 55(2)(b) of the Act.

As the Landlord was successful in their Application, I also grant them authority to withhold \$100.00 from the Tenant's security deposit pursuant to section 72 of the Act. The balance of the security deposit must be dealt with in accordance with the Act.

### Conclusion

Pursuant to section 55 of the Act, I grant an Order of Possession to the Landlord effective **two (2) days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from them by the Landlord.

Pursuant to section 72 of the Act, I authorize the Landlord to withhold \$100.00 from the Tenant's \$435.00 security deposit in recovery of 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 19, 2020

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Residential Tenancy Branch