



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **CNC-MT, AAT**

### Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- Cancellation of One Month Notice to End Tenancy for Cause (“One Month Notice”) pursuant to section 47;
- More time to cancel a Notice to End Tenancy pursuant to section 66
- An order for the landlord to allow the tenant access to the unit pursuant to sections 32 and 70;

The agents PB and RK attended for the landlord (“the landlord”). The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 13 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord testified that the tenant gave the landlord a copy of the Notice of Hearing.

Order of Possession

I informed the landlord that in the event I dismissed the tenant's application to cancel the Notice issued in compliance with the Act, I was required under section 55 of the Act to grant an order of possession in favour of the landlord.

Section 55 states as follows:

*55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if*

*(a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*

*(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

The landlord requested to proceed with the hearing and asked for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing. A copy of the tenancy agreement was not submitted. The testified to the background of the tenancy and the present circumstances.

The landlord testified that the tenancy began on October 1, 2021. The monthly rent is \$500.00 payable on the first of the month. The tenant provided a security deposit of \$250.00 at the beginning of the tenancy.

The landlord stated there were multiple complaints regarding the tenant.

The landlord testified they issued a One Month Notice on March 22, 2022 which was posted on the tenant's door, thereby effecting service on March 25, 2022. A copy was submitted which is in the RTB form.

The effective date of the Two Month Notice was May 1, 2022.

The causes listed in the Notice were the following:

- 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 of the landlord or others
- Tenant has caused extraordinary damage

The One Month Notice included a term that the tenant had to right to dispute the Notice within 10 days, that is, by April 4, 2022.

The landlord testified the tenant has caused extraordinary damage to the unit. He has smashed out the window and door. He has painted the unit with automobile paint which will be difficult and costly to remove. The tenant allows unsuitable guests in his unit who disturb other occupants.

The tenant filed an application to cancel the Notice on April 5, 2022 outside the ten-day period. The tenant has failed to attend the hearing of the tenant's application.

The tenant has not vacated the unit. The landlord requested an Order of Possession.

### Analysis

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

Rule 7.3 of the Rules of Procedure provides as follows:

***7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in***

*the absence of that party or dismiss the application with or without leave to reapply.*

As the applicant did not attend the hearing and in the absence of any evidence or submissions on behalf of the applicant, I order the tenant's application dismissed without leave to reapply.

As the tenant has failed to appear at this hearing or submit any testimony or evidence, I dismiss the tenant's request to cancel the One Month Notice as well as the other relief requested by the tenant.

Pursuant to section 55(1), the director **must** grant to the landlord an order of possession of the rental unit if the landlord's notice to end tenancy complies with section 52 and the tenant's application is dismissed.

I determine the landlord's Notice complies with section 52. I have dismissed the tenant's application. I therefore find the landlord is entitled to an order of possession.

### Conclusion

I dismiss the tenant's application without leave to reapply.

I grant the landlord an Order of Possession which is effective two days after service on the tenant. The landlord must serve this order on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia enforceable as an order of that Court.

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: July 27, 2022

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Residential Tenancy Branch