

## **DECISION**

**Dispute Codes:** OPC and FF

### **Introduction**

This application was brought by the landlords seeking an Order of Possession pursuant to a one month Notice to End Tenancy for cause served on September 12, 2009. The landlords had also sought to recovery the filing fee for this proceeding but withdrew that request.

Despite having been served with the Notice of Hearing sent by registered mail sent on October 2, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

As a matter of note, a notation on the service envelope by Canada Post indicates that the tenant refused service of the registered mail. Nevertheless, service made by registered mail is deemed to have been received five days after mailing under section 90 of the *Act* and the landlord have met the requirements of service.

### **Issues to be Decided**

This application requires a decision on whether the landlords are entitled to an Order of Possession.

### **Background and Evidence**

The landlords are not aware of the start date of this tenancy which was in existence when they took possession of the rental building on April 1, 2009. The landlords reside in the upstairs portion of the house and the tenant resides in a lower suite. Rent is \$675 and the security deposit was paid by way of the tenant purchasing a lawn mower.

### **Analysis**

Section 47(4) and (5) of the *Act*, which deals with notice to end tenancy for cause states that a tenant receiving such notice may apply to dispute it within 10 days of receiving it. Otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the date specified in the notice and must vacate by that date.

In this instance, the notice incorrectly set an end of tenancy date of October 12, 2009 which self-corrects under the *Act* to October 31, 2009 to give the tenant the required full month's notice following the next rent due date as required by section 47(2)(b) of the *Act*

I find that the tenant has not made application to dispute the Notice to End Tenancy and is therefore conclusively presumed to have accepted the end of the tenancy as prescribed by section 47(5)(b) of the *Act*.

Therefore, the landlords requested and I find they are entitled to an Order of Possession effective at 1 p.m. on November 30, 2009.

### **Conclusion**

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on November 30, 2009 for service on the tenant.