



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      O, FF

### Introduction

This is an application by the Landlord for an order of possession resulting from the Tenant's notice to vacate the rental unit and the recovery of the filing fee for this application.

Both parties attended the hearing by conference call and gave affirmed testimony.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The Landlord states that the Tenant was served by registered mail on April 1, 2011 with the notice of hearing and evidence submitted. The Tenant confirms receiving the package. The Landlord has also provided the registered mail tracking ##### and in direct evidence stated that he printed a copy of the tracking history confirming that the Tenant received the package.

The Landlord states that after receiving the Tenant's notice, he was informed by the Tenant on March 30, 2011 that the Tenant would not be vacating the rental unit by 1pm on March 31, 2011. The Tenant does not dispute the notice, but is in dispute over the ministry housing cheque that the Landlord cashed on March 31, 2011. The Landlord filed the application for dispute resolution on March 31, 2011 and sent a registered mail letter on April 1, 2011 notifying the Tenant, Ministry of Social Housing and Development and the Residential Tenancy Branch that he has accepted the payment for use and occupancy only because of the Tenant's refusal to vacate. The Tenant disputes that he would have moved out, but for the Landlord cashing the cheque.

### Analysis

Based upon the submitted evidence of the Landlord and the direct evidence of both parties, I am satisfied that the Tenant was properly served with the notice of hearing and evidence package. The Tenant has provided no evidence to the RTB or the Landlord.

The Tenant does not dispute the notice to vacate that the Landlord has submitted. Based upon this notice and the letter provided in acceptance of the April rent payment for use and occupancy only, I am satisfied that the Landlord has established his claim. The Landlord is granted an order of possession. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, this order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Having been successful in his claim, the Landlord is entitled to the recovery of the \$50.00 filing fee. I grant an order under section 67 for \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of the Court.

#### Conclusion

The Landlord is granted an order of possession and a monetary order for \$50.00.

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: April 20, 2011.

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Residential Tenancy Branch