



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPC, OPB, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Cause, breach of an agreement with the landlord and filing fee costs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for Cause and breach of an agreement with the landlord?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The landlord supplied a copy of the tenancy agreement and crime free housing agreement, signed by the parties, which indicated that the tenancy commenced on January 1, 2011. Rent is due on the first day of each month.

On April 21, 2011, the landlord issued the tenant a 1 Month Notice ending tenancy for cause and posted it to the door of the rental unit on the same date. The Notice indicated that the tenant had 10 days in which to dispute the Notice or he would have to vacate the rental unit by May 31, 2011. Both agents for the landlord were present when the Notice was posted sometime in the afternoon.

The landlord provided evidence of problems experienced in relation to adherence to the crime free housing agreement.

The tenant testified that he did not receive a copy of the Notice until he was served with the Notice of hearing package on May 31, 2011.

The tenant stated that he did not pay attention to the Notice and did not apply to dispute the Notice as he did not know any better. The tenant stated he did not receive a copy of the Notice that was posted to his door on April 21, 2011, and that it was likely taken off his door by someone else in the building.

The tenant stated he did not pay much attention to the landlord's application and did not understand the need to dispute the Notice as the landlord had submitted an application. When the section of the Notice explaining the need to dispute the Notice was read to the tenant during the hearing, he replied that he had not had to deal with this issue in the past.

The landlord stated he would like an Order of possession effective June 30, 2011.

### Analysis

The tenant stated that he did not understand that he should dispute the Notice and could not give a reasonable explanation as to why he failed to do so. Even if I were to accept the tenant's submission that he did not receive the Notice that was posted to his door on April 21, 2011; the tenant acknowledged receipt of the Notice on May 31, 2011; the date the landlord submitted their application requesting an Order of possession.

I find that the tenant was served with the Notice ending tenancy no later than May 31, 2011, at which point the tenant had until at least June 10, 2011, to dispute the Notice. I have rejected the tenant's submission that he did not know any better; as the Notice clearly gives the tenant warning that he must dispute the Notice unless he agrees with the effective vacancy date and the end of the tenancy.

Section 47(5) of the Act provides:

*(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*

*(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*

*(b) must vacate the rental unit by that date.*

Therefore, even if I accept the tenant did not receive the Notice until May 31, 2011, I find that the tenant still had ample time to dispute the Notice within 10 days. This hearing was held 21 days after the date the tenant declared he received the Notice; yet the tenant failed to dispute the Notice.

Therefore, as the tenant received the Notice no later than May 31, 2011, and the tenant failed to dispute the Notice, I find that the tenancy has ended as provided by section 47(5) of the Act; the tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the tenancy when he neglected to dispute the Notice.

I find that the landlord is entitled to an Order of possession effective June 30, 2011, at 1 p.m., as requested by the landlord.

As the landlord's application has merit I find that the landlord is entitled to filing fee costs.

Conclusion

The landlord has been granted an Order of possession that is effective **June 30, 2011 at 1 p.m.** This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord is entitled to compensation in the sum of \$50.00 for the filing fee costs.

Based on these determinations I grant the landlord a monetary Order for \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court

Dated: June 21, 2011.

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Residential Tenancy Branch