



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: CNC / OPC

### Introduction

This hearing was scheduled in response to the tenant's application to cancel a notice to end tenancy for cause. Both parties attended the hearing and gave testimony. During the hearing the landlord orally confirmed the wish to seek an order of possession.

### Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

The landlord issued a 1 month notice to end tenancy for cause dated November 23, 2011. The notice was served by way of posting on the tenant's door on November 24, 2011. Subsequently, the tenant filed an application to dispute the notice on December 9, 2011. A copy of the notice was submitted in evidence, and reasons shown on the notice for its issuance are as follows:

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 or lawful right of another occupant or the landlord

put the landlord's property at significant risk

### Analysis

Section 90 of the Act speaks to **When documents are considered to have been received**, and provides in part:

90 A document given or served in accordance with section 88 [*how to give or serve documents generally*] or 89 [*special rules for certain documents*] is deemed to be received as follows:

(c) if given or served by attaching a copy of the document to a door or other place, on the 3<sup>rd</sup> day after it is attached.

Section 47 of the Act addresses **Landlord's notice: cause**, and provides in part:

47(4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

Based on the documentary evidence and testimony of the parties, I find that the 1 month notice was posted on the tenant's door on November 24, 2011. Accordingly, I find that the tenant is deemed to have received the notice 3 days later on November 27, 2011. Further, I find that the 10<sup>th</sup> and final day available to the tenant for disputing the notice is December 7, 2011. As noted earlier, the tenant's application for dispute resolution was filed 2 days later on December 9, 2011.

In his application the tenant has not applied for more time to make an application to cancel a notice to end tenancy. However, even if the tenant had made such an application, the director would be required to find that there were "exceptional circumstances" for extending the statutory time limit.

During the hearing the parties discussed the end date for tenancy. The landlord requested an order of possession effective December 31, 2011, which is the date shown on the notice by when the tenant must vacate the unit.

Pursuant to all the foregoing, I find that the landlord has established entitlement to an order of possession. The tenant's application is, therefore, hereby dismissed.

### Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Saturday, December 31, 2011**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced 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: December 20, 2011.

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Residential Tenancy Branch