



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, early end to tenancy, and recovery of the filing fee for the cost of this Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession and recovery of the filing fee for the cost of this Application?

### Background and Evidence

Parties agree that the tenancy started September 01, 2003. The parties agree that the Tenant paid the Landlord a security deposit of \$200.00 when the tenancy commenced in 2003. The Landlord testified that Tenant has a rental subsidy and the current monthly rent is \$522.00 due on the first of each month. The Tenant testified that she thought the Landlord may be receiving \$622.00 per month from Ministry of Social Development. The Tenant has not filed an application for dispute, and no copy of the current rental subsidy agreement was provided by either party.

The parties agree that a One Month Notice to End the Tenancy for Cause was served on the Tenant by being affixed to the door of the rental unit on January 16, 2012. The Tenant and her mother testified that the Tenant is in agreement with vacating the rental unit by February 29, 2012 as required by the Notice, and that the Tenant did not file an application to dispute the Notice.

The parties agree that due to an order from the RCMP on February 01, 2012 following an alleged assault by the Tenant on the Landlord's agent, DH, the Tenant is prohibited from having contact with DH.

The Landlord stated that due to the Tenant assaulting one of their agents, they wished the tenancy to end earlier than February 29, 2012, as stated in the One Month Notice.

The Tenant and her mother stated that the Tenant is in the process of packing and looking for another place to move to, but that she would have difficulty moving out before February 29, 2012.

During the hearing, the Tenant with her mother assisting her at the hearing agreed to vacate the rental unit for February 29, 2012. The Landlord also agreed to withdraw their request for an early end to the tenancy as the Tenant is now agreeing to move out of the rental unit for February 29, 2012. The Landlord requested an order of possession.

As set out on the Landlord's Application, the Landlord is requesting reimbursement of the \$50.00 filing fee for this proceeding.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the evidence of the parties that the Tenant was served in person with the One Month Notice to End Tenancy for Cause on January 16, 2012 in accordance with the Residential Tenancy Act (the "Act") and Policy Guideline.

The Notice was affixed to the Tenant's door as a result it was deemed served within three days, which is January 19, 2012. The Notice states that the Tenant had ten days to apply for Dispute Resolution, or the tenancy would end on February 29, 2012. The Tenant did not apply to dispute the Notice to End Tenancy within ten days from the date of service. The deadline to do so was January 29, 2012.

By failing dispute the Notice, I find that the Tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy will end on February 29, 2012, which is more than 30 days after the deemed service date of the Notice.

I find that the Landlord is entitled to an order of possession effective 1:00 P.M. on February 29, 2012.

As the Landlord has succeeded in their Application, I find that the Landlord is entitled to recover the \$50.00 fee for this proceeding.

I order that the Landlord retain \$50.00 from the security deposit, in full satisfaction of the claim. The balance of the security deposit must be dealt with in accordance with the Act.

Conclusion

I find that the Landlord is entitled to an order of possession effective **1:00 P.M. on February 29, 2012**. This order must be served on the Tenant and may be filed in the Supreme Court.

I find that the Landlord may keep \$50.00 from the security deposit in full satisfaction of the claim. The balance of the security deposit must be dealt with in accordance with the Act.

The order accompanies the Landlord's copy of this decision.

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: February 16, 2012.

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Residential Tenancy Branch