



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession.

The Landlord provided affirmed testimony that he served the Tenant in person at the rental unit with the Application for Dispute Resolution and Notice of Hearing package on March 22, 2012.

I find that the Tenant was served the Application and Notice of Hearing in accordance with section 89 of the Residential Tenancy Act (the "Act").

The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The Landlord testified that the tenancy commenced in August 2010. The Landlord stated that the monthly rent is \$550.00 for the rental unit due on the first of each month. The Landlord did not provide a copy of the tenancy agreement into evidence.

The Landlord testified that he personally served the Tenant at the rental unit with the One Month Notice to End Tenancy on March 07, 2012. The Notice states that the Tenant is given notice to move out April 30, 2012, because the rental unit/site must be vacated to comply with a government order. The Landlord provided a copy of the Notice into evidence.

The Landlord testified that a bylaw officer and legal counsel for the City ordered him to reduce the number of renters from eleven to four plus one supervisor. The Landlord

stated they told him that the house where the rental units are had too many people and that this constituted illegal use and a bylaw contravention. The Landlord provided a copy of a letter dated March 05, 2012 from the legal counsel for the City which reiterated the City's position on the Landlord's bylaw contravention. The Landlord stated that he met with the tenants to discuss the bylaw contravention and posted information from the City's legal counsel at the rental accommodation. The Landlord stated that the tenants selected who would stay and who would move out. The Landlord stated that the Tenant advised the Landlord that he was willing to move out. The Landlord stated that the Tenant has since been actively looking for a new place to move to and he has been providing the Tenant references so that he can secure new housing. The Landlord stated that he is not sure if the Tenant has found new accommodation yet, as he is still in the rental unit. The Landlord stated that the Tenant did not file an Application to dispute the Notice.

The Landlord provided into evidence a copy of a Court order which the City succeeded in obtaining against him on March 15, 2012 which states that by May 01, 2012 he must restore the property to its permitted uses and limit the number of roomers or boarders at the property to no more than four.

The Landlord explained that he needs the Tenant to vacate the rental unit so that he can be in compliance with the government order. The Landlord requests an order of possession of the rental unit effective April 30, 2012 as stated on the One Month Notice he issued to the Tenant.

### Analysis

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

I accept the Landlord's testimony that he personally served the Tenant with the 10 Day Notice to End Tenancy for Unpaid Rent on March 07, 2012 in accordance with the Residential Tenancy Act (the "Act") and Policy Guideline.

As the Notice was personally served on the Tenant at the rental unit on March 07, 2012, it was deemed to have been served the same day. The Landlord has indicated that the Notice has been issued to comply with a government order, which is one of the reasons stated in section 47 of the Act for issuance of a One Month Notice to End Tenancy. The Notice states that the Tenant had ten days to apply for Dispute Resolution or the tenancy would end from the service date. 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 March 17, 2012. The Landlord indicated on the Notice that the Tenant has until

April 30, 2012 to vacate the rental unit, which is more than the 30 days Notice specified in the Act. I find that the Tenant did not file an Application to dispute the Notice, and the Tenant is still in the rental unit as of the date of this hearing.

Based on the foregoing, I find that the Tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy will end effective 1:00 P.M. April 30, 2012, as stated on the Notice, which is more than 30 days after the deemed served date of the Notice.

Therefore, I find that the Landlord is entitled to an order of possession effective 1:00 P.M. on April 30, 2012.

### Conclusion

I find that the Landlord is entitled to an order of possession **effective at 1:00 P.M. April 30, 2012**. This order may be filed in the Supreme Court and enforced as an order of that Court.

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: April 12, 2012.

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Residential Tenancy Branch