



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC FF

### Preliminary Issues

Upon review of the Landlord's application for dispute resolution the Landlord advised he wished to withdraw his request for a monetary order for damage to the unit with leave to reapply at a future date once he is able to have contractor access the unit to provide a thorough assessment of the cost to repair the damage.

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for cause and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, served personally on March 23, 2012, by the Landlord. Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me. No one appeared on behalf of the Tenant despite him being served notice of this proceeding in accordance with the *Act*.

### Issue(s) to be Decided

1. Has a valid 1 Month Notice to End Tenancy (the Notice) been issued and served upon the Tenant in accordance with Sections 52 and 47 of the *Act*.
2. Has the Tenant made application to dispute the Notice?

### Background and Evidence

The Landlord affirmed he entered into a written fixed term tenancy agreement with the Tenant that began on February 1, 2011 and switched to a month to month tenancy after

January 31, 2012. Rent is payable on the first of each month in the amount of \$1,445.00. On January 11, 2011 the Tenant paid \$722.50 as the security deposit and on January 17, 2011 the Tenant paid \$722.50 as the pet deposit.

The Landlord advised that rent has been paid late from April 2011 onward which the Landlord would issue 10 Day Notices and the Tenant would pay the rent. Now the Tenants have not paid the last two months rent at all.

The Landlord personally served the Tenant the 1 Month Notice for repeated late payment of rent and damage to the unit on February 20, 2012. The Landlord confirmed he had mis-spelled the Tenant's last name on the Notice but given the difficulty of the spelling the Landlord stated the Tenant had no doubt the Notice was for him.

### Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlord and corroborated by his evidence.

Upon review of the Notice to End Tenancy and the Tenant's name, I accept the Landlord's testimony that the Tenant ought to know the Notice which was served personally to the Tenant was issued to Tenant even though the spelling of the Tenant's surname is different on the Notice. Therefore, in accordance with section 62 of the Act, I amend the 1 Month Notice to display the correct spelling of the Tenant's surname.

Section 47(5) of the Act stipulates that 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.

In the case the Notice was served to the Tenant February 20, 2012 and the effective date is March 31, 2012, pursuant to section 53(2) of the Act. As per the aforementioned, I find this tenancy ended as of the effective date of the Notice, March 31, 2012, and I award the Landlord an Order of Possession.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The Landlord's decision will be accompanied by an Order of Possession effective 2 days upon service to the Tenant. This Order is legally binding and must be served upon the Tenant.

The Landlord may withhold \$50.00 from the Tenant's security deposit as recovery of the filing fee.

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 24, 2012.

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Residential Tenancy Branch