



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

**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 and filing fee costs.

The landlord provided affirmed testimony that the tenant was served with Notice of the hearing via registered mail sent to the rental unit address on April 5, 2012. The landlord stated that the Canada Post web site showed that the mail was ready for pick-up on April 10, 2012; that another notice was left for the tenant on April 12, 2012, and that a final notice of pick-up was left for the tenant on April 17, 2012.

A party may not avoid service by failing to retrieve registered mail; therefore, pursuant to section 89 and 90 of the Act, I find that the tenant has been served Notice of this hearing, effective on the 5<sup>th</sup> day after mailing; April 10, 2012.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession for Cause?

Is the landlord entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on July 1, 2011; rent is due on the first day of each month.

On March 1, 2012, the landlord sent the tenant a 1 Month Notice to End Tenancy for Cause, via registered mail to the rental unit address. A copy of the registered mail receipt and tracking number was supplied as evidence. On March 12, 2012, the registered mail was returned to the landlord marked as "unclaimed."

On March 13, 2012, at approximately 2 p.m. the landlord posted a copy of the Notice to the tenant's door.

The 1 Month Notice to End Tenancy for Cause was issued on February 29, 2012, and indicated that the tenant must vacate the rental unit on April 19, 2012.

The reasons stated for the Notice to End Tenancy were that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and, that the tenant has engaged in illegal activity that has or will adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord has requested an Order of possession based on the undisputed Notice.

### Analysis

The tenant failed to retrieve the registered mail that contained Notice of this hearing; he also failed to claim the registered mail sent to him on March 1, 2012; which contained the Notice ending tenancy. From the evidence before me it appears that the tenant is failing to retrieve registered mail in an attempt to avoid communication sent by the landlord. A failure to claim registered mail is not a method by which service can be avoided.

Therefore I find that the tenant was served with the 1 Month Notice to End Tenancy for Cause effective March 6, 2012, on the 5<sup>th</sup> day after mailing.

Further, the landlord posted a copy of the Notice to the tenant's door on March 12, 2012; which I find provided service again, on the 3<sup>rd</sup> day after posting; March 15, 2012.

There is no evidence before me that the tenant disputed the Notice; therefore, pursuant to section 47(5) of the Act, I find that the tenant has accepted that the tenancy ended on the effective date of the Notice.

I have considered the 2<sup>nd</sup> date of service; March 15, 2012, as the last service date of the Notice. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to April 30, 2012.

The landlord has been issued an Order of possession effective April 30, 2012, at 1 p.m.

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 **at 1 p.m. on April 30, 2012**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the \$50.00 filing fee. 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

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 25, 2012.

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Residential Tenancy Branch