



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC and FF

### Introduction

This hearing was convened on an application by the landlord on June 8, 2012 for an Order of Possession pursuant to a one-month Notice to End Tenancy for cause served by posting on the tenants' door on May 26, 2012. The landlord also seeks to recover the filing fee for this proceeding.

### Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and recovery of the filing fee for this proceeding.

### Background and Evidence

This tenancy began on November 20, 2011. Rent is \$810 per month and the landlord holds a security deposit of \$405 paid at the beginning of the tenancy.

During the hearing, the landlord gave evidence that the Notice to End Tenancy for cause was served on May 26, 2012 after the landlord had received numerous complaints and issued seven warning notices during the seven month tenancy. The Notice to End Tenancy set an end of tenancy date of June 30, 2012.

The tenant stated that she had not made application to contest the notice to end because she had not received it. The landlord stated that she was certain the tenant had received the notice shortly after it was posted on the door. The tenant said she was not aware of the notice until June 13, 2012 when she received the Notice of Hearing.

### Analysis

Section 47 of the *Act* empowers a landlord to issue a one-month Notice to End Tenancy for cause.

Section 47(5) of the *Act* provides that if a tenant receives a one-month Notice to End Tenancy for cause and does not make application to contest the notice within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

As to the tenant's claim that she had not received the notice, I find the landlord's contradictory evidence to be the more credible. In addition, if the tenants had not received the notice, they might still have made application to contest it after receiving the Notice of Hearing on June 13, 2012.

Therefore, in the absence of any such application, I find that the tenants can be conclusively presumed to have accepted that the tenancy ends on June 30, 2012 and that the landlord is entitled to an Order of Possession to take effect on that date.

I further find, based on the submissions by the tenant during the hearing, that the tenants would not have vacated on June 30, 2012 without an Order of Possession. Therefore, I find that the application was warranted and, as authorized by section 72 of the *Act*, I hereby order that the landlord may recover the filing fee for this proceeding by retaining \$50 from the tenants' security deposit.

### Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia to take effect two days from service of it on the tenants and the landlord is authorized to retain the \$50 filing fee for this proceeding from the tenants' security deposit.

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: June 27, 2012.

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Residential Tenancy Branch