



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPC/OPB, FF

### Introduction

This hearing concerns the landlord's application for an order of possession / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on February 1, 2012. Monthly rent of \$700.00 is due and payable on the first day of each month, and a security deposit of \$350.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated May 4, 2012. The notice was served in-person on the tenant on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is May 30, 2012, and several reasons are shown on the notice for its issuance. Subsequently, the tenant did not file an application to dispute the notice, and she continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and testimony, I find that the tenant was served with a 1 month notice to end tenancy for cause dated May 4, 2012. The tenant did not dispute the notice within 10 days of receiving the notice, and she is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy

ends on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

Section 53 of the Act addresses **Incorrect effective dates automatically changed**. In part, this section provides that if a landlord gives notice to end a tenancy effective on a date that does not comply with the Act, the notice is deemed to be changed in accordance with the Act. In short, as the 1 month notice is dated and was served on May 4, 2012, the effective date of the end of tenancy pursuant to the notice is June 30, 2012 (**NOT May 30, 2012 as shown on the notice**).

As the landlord has succeeded with his application, I find that he has established entitlement to recovery of the filing fee. In this regard, I hereby order that the landlord may withhold \$50.00 from the tenant's security deposit.

#### Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Saturday, June 30, 2012**. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby order that the landlord may withhold **\$50.00** from the tenant's security deposit in order to recover the filing fee for this application.

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 07, 2012.

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Residential Tenancy Branch