



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPC; FF

### **Introduction**

This is the Landlord's application for an Order of Possession; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

It was determined that the Landlord's agent DK hand delivered the Notice of Hearing documents and copies of the Landlord's documentary evidence to the Tenant PT on July 16, 2012, and to the Tenant JA on July 17, 2012, at the rental property.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?

### **Background and Evidence**

A copy of the tenancy agreement was provided in evidence. Monthly rent is due on the first day of each month. The Tenants paid a security deposit in the amount of \$475.00 at the beginning of the tenancy.

The Landlord provided a copy of the Notice to End Tenancy for Cause, issued June 27, 2012 (the "Notice"). The Landlord's agent DK testified that she served the Tenants with the Notice on June 29, 2012, by hand delivering the Notice to the Tenant PT at the rental property. The Tenants acknowledged receipt of the Notice.

The Tenants did not file an Application for Dispute Resolution seeking to cancel the Notice. They testified that they thought that by attending the Hearing, they would have an opportunity to provide testimony on why the Notice should be cancelled. They requested an extension of time in order to file an Application to dispute the Notice.

The Landlord's agent JM asked for an Order of Possession to be effective August 31, 2012.

### **Analysis**

Based on the testimony of both parties, I accept that the Landlord served the Tenants with the Notice to End Tenancy on June 29, 2012. The Tenants did not file for dispute resolution within 10 days of receiving the Notice to End Tenancy. Page two of the Notice clearly indicates that the Tenants had 10 days after receipt of the Notice to file an Application to dispute it.

The Tenants expressed a desire to be heard with respect to the causes alleged on the Notices. Section 66(1) of the Act allows me to extend a time limit established by the Act in **exceptional** circumstances. However, Section 66(3) of the Act provides that **I may not extend the time limit to make an application for dispute resolution to dispute a Notice to End Tenancy beyond the effective date of the Notice.**

A Notice to End Tenancy for Cause ends the tenancy effective on a date that is not earlier than one month after the date the Notice is received and is the day before the day in the month that rent is payable under the tenancy agreement. Therefore, I find **the effective date of the end of tenancy was July 31, 2012.** Even if I accepted that there were exceptional circumstances for the Tenants not filing an Application to dispute the Notice, Section 66(3) of the Act precludes me from allowing an extension of time to file that application.

As explained to the Tenants, pursuant to the provisions of Section 47(5) of the Act, the Tenants are **conclusively presumed** to have accepted that the tenancy ended on July 31, 2012. I find that the Landlord is entitled to an Order of Possession. The Landlord's agent requested the Order to be effective August 31, 2012.

The Landlord has been successful in its application and is entitled to recover the cost of the **\$50.00** filing fee from the Tenants. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct the \$50.00 monetary award from the security deposit.

### **Conclusion**

I hereby provide the Landlord an Order of Possession effective **1:00 p.m., August 31, 2012.** This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I order that the Landlord may deduct the cost of the **\$50.00** filing fee from the security deposit. The balance of the security deposit must be applied in accordance with the provisions of the Act.

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: August 08, 2012.

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Residential Tenancy Branch