



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for cause.

The Landlord affirmed that she served each Tenant with copies of the Notice of Dispute Resolution hearing documents by registered mail on October 15, 2012. Canada Post receipts were provided in the Landlord's evidence and the tracking numbers were confirmed in the Landlord's testimony. Based on the submissions of the Landlord I find that each Tenant was sufficiently served Notice of this proceeding so I continued in the Tenants' absence.

### Issue(s) to be Decided

1. Should the Landlord be granted an Order of Possession?

### Background and Evidence

The Landlord submitted evidence in support of their claim which included, among other things, copies of: warning letters issued to the Tenants; Canada Post receipts, and a 1 Month Notice to end tenancy issued August 30, 2012.

The Landlord advised the parties entered into a written fixed term tenancy agreement that began on July 1, 2012 and is set to end on June 30, 2013. Rent is payable on the first of each month in the amount of \$800.00 and on July 2, 2012 the Tenants paid \$400.00 as the security deposit. No payments have been received for the pet deposit.

The Landlord stated that she personally served the Tenant R. T. with the 1 Month Notice on August 30, 2012. She said she served the Notice because she was still receiving complaints that the Tenants were continuing to disturb other tenants.

The Landlord noted that the Tenants have failed to pay the full amount of rent owing for October and November. She confirmed receipt of the monthly Income Assistance payments of \$400.00, which leaves a balance due of \$800.00 (\$400.00 for each month October and November).

### Analysis

Upon review of the 1 Month Notice to End Tenancy issued August 30, 2012, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenants in a manner that complies with the Act.

Section 47(4) of the Act stipulates that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

In this case the Tenants would have had to file their application for dispute no later than September 10, 2012. At the time the Landlord filed her application for an Order of Possession on October 10, 2012 the Tenants had not made application to dispute the Notice.

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.

As per the aforementioned, I find this tenancy ended as of the effective date of the Notice, September 30, 2012, and I award the Landlord an Order of Possession.

### Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **Two days after service on the Tenants**. This Order is legally binding and must be served upon the Respondent Tenants.

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: November 15, 2012.

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Residential Tenancy Branch