



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by posting it on the door of the Tenants’ rental unit on October 30, 2012. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant’s absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started on February 1, 2011 as a month to month tenancy. Rent is \$495.00 per month payable in advance of the 1<sup>st</sup> day of each month. No security deposit was required in this tenancy.

The Landlord said that the Tenants have unpaid rent of \$495.00 for each month of October, November and December 2012. As the Tenant did not pay these amounts when they were due the Landlord personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated October 16, 2012 to the Tenants on October 16, 2012.

The Landlord continued to say that he is not sure if the Tenants are still living in to the rental unit, but the Landlord requested an Order of Possession for as soon as possible. The Landlord said he did not think he would be able to collect any monetary compensation from the Tenants so he did not apply for a monetary Order for unpaid rent.

### Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on October 19, 2012. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than October 22, 2012.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenants has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia

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*.

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Residential Tenancy Branch