



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB

### Introduction

This is an application filed by the Landlord for an order of possession because the Tenant has breached an agreement with the Landlord.

Both parties attended the hearing by conference call and gave testimony. The Landlord states that the Tenant was served by Canada Post Registered Mail on March 6, 2013 and has provided the Customer Tracking No. as confirmation in their direct testimony. As both parties have attended and have confirmed receipt of the Notice of Hearing Package, I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the notice of hearing package and the submitted documentary evidence. The Tenant did not submit any documentary evidence.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

This Tenancy began on May 15, 2012 on a month to month basis as shown by the submitted copy of the signed tenancy agreement.

The Landlord state that the Tenant entered into a "Conduct Agreement for Continued Tenancy" on August 14, 2012. Both parties entered into the agreement by signing it. It states, the Tenant "...agrees and understands that this conditional agreement for continued tenancy is being allowed on a one-time basis only." The Tenant failed to obtain a restraining order against her guest by October 1, 2012 and that between

August 14, 2012 and January 3, 2013 the Tenant's guests was seen on the property and that the Tenant has failed to provide a copy of the restraining order to the Landlord.

The Landlord served the Tenant with a 1 month notice to end tenancy for cause dated January 3, 2013 with an effective date of February 28, 2013. The notice was served by Canada Post Registered Mail on January 4, 2013. The notice states a reason for cause as "Breach of a Material Term of the Tenancy Agreement that was not corrected within a reasonable time after written notice to do so." The Tenant states that she was not able to pick up the 1 month notice to end tenancy for cause package as she did not have any identification to pick it up at Canada Post, but that she did receive the attempted service notice from Canada Post. Both parties agreed that since the Tenant did not have any identification that a copy could be obtained by the Tenant by attending the Landlord's office. The Tenant then stated that it was the Landlord's responsibility to serve her with the notice and chose not to attend the office to pick up a copy.

The Tenant admitted in her direct testimony that she was encountering difficulty in obtaining a restraining order and decided to not inform the Landlord of her inability to obtain one by the October 1, 2012 deadline as laid out by the August 14, 2012 agreement. The Tenant stated that she was afraid of being evicted and did not comply with the agreement.

### Analysis

I find based upon the evidence provided by both parties that the Landlord complied with the Act by serving the 1 month notice to end tenancy issued for cause by Canada Post Registered Mail on January 4, 2013. Although the Tenant did not have identification to pick up the package, the Tenant was advised by the Landlord's Agents that one could be obtained by attending the Landlord's office. The Tenant chose to avoid service by not attending the Landlord's office. The Tenant is deemed to have been properly served by Canada Post Registered Mail as of January 9, 2013. I also note that the Tenant was able to receive the Landlord's Notice of Hearing Package by Canada Post Registered Mail on March 12, 2013 when it was personally signed for by the Tenant.

I find based upon the direct testimony of the Tenant that the Landlord has established a claim for an order of possession. The Landlord is granted an order of possession. This order must be served upon 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.

Conclusion

The Landlord is granted an order of possession.

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: March 26, 2013

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Residential Tenancy Branch

