



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**OPR, OPB**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent and breach of an agreement with the landlord.

The landlord provided affirmed testimony that on May 23, 2013 copies of the Application for Dispute Resolution and Notice of Hearing were given to the tenant by taping the hearing package to the tenant's door. Service occurred in the early evening and both landlord's were present.

These documents are deemed to have been served in accordance with section 89 of the Act; and are deemed served on the 3<sup>rd</sup> day after posting; however the tenant did not appear at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on an undisputed 2 Month Notice to End Tenancy for Landlord's Use?

### Background and Evidence

The tenancy commenced on September 1, 2012, rent is due on the 1<sup>st</sup> day of each month.

The landlord stated that on May 1, 2013 a 1 Month Notice to End Tenancy for Landlord's Use was posted to the tenant's door. Both landlords were present when the Notice was posted in the early evening. As the landlords walked away from the rental unit they saw the tenant come to the door and remove the Notice. When the tenant paid rent owed for June she told the landlord's that she did not see any reason to go to arbitration.

The Notice has an effective date of July 31, 2013 and indicates that the landlord or a close family member intends to occupy the rental unit. The Notice indicated that the

tenant had fifteen days to dispute the Notice and that if the tenant did not dispute the Notice it would be conclusively presumed she has accepted the tenancy will end.

### Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the tenant received the Notice to End Tenancy no later than May 3, 2013.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that requires the tenant to vacate the rental unit on July 31, 2013, pursuant to section 49 of the Act.

Section 49(5) of the Act stipulates that a tenant has fifteen days from the date of receiving the 2 Month Notice to End Tenancy to dispute the Notice. There was no evidence before me that the tenant disputed the Notice. Therefore, as the tenant did not exercise this right I find, pursuant to section 49(6) of the Act, that the tenant accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective at 1 p.m. on July 31, 2013.

The landlord has been granted an Order of possession that is effective at 1 p.m. on July 31, 2013. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

### Conclusion

The landlord has been issued an Order of possession.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 13, 2013

---

Residential Tenancy Branch

