



# 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 for an order of possession.

Although each responded was served with the Application for Dispute Resolution and Notice of Hearing by posting to the door on May 10, 2013. The tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later. I find that the tenants have been duly served in accordance with the Act.

### Preliminary issue

The landlord has listed several items for dispute resolution in their application. At the outset of the hearing the landlord stated he was only proceeding on the landlord's request for an order of possession. As a result, the balance of the landlord's application was withdrawn. The landlord is at liberty to reapply.

### Issue to be Decided

Is the landlord entitled to an order of possession?

### Background and Evidence

The landlord testified that as a term of their tenancy agreement he is allowed to provide the tenant with 30 days notice to vacate the rental unit. The landlord stated that he gave the tenants a letter which stated, "we are giving you one month notice to vacate by May 30, 2013, as per our initial tenancy agreement."

When the landlord was questioned, the landlord stated he did not use an approved form under the Act.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

In this case, the evidence of the landlord was that he sent a letter to the tenants requesting the tenant to vacate the property by May 30, 2013. The evidence was the notice was not in an approved form.

Section 44 of the Act, states;

*44 (1) A tenancy ends only if one or more of the following applies:*

*(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:*

- (i) section 45 [tenant's notice];*
- (ii) section 46 [landlord's notice: non-payment of rent];*
- (iii) section 47 [landlord's notice: cause];*
- (iv) section 48 [landlord's notice: end of employment];*
- (v) section 49 [landlord's notice: landlord's use of property];*
- (vi) section 49.1 [landlord's notice: tenant ceases to qualify];*
- (vii) section 50 [tenant may end tenancy early];*

Section 52 of the Act, states,

*52 In order to be effective, a notice to end a tenancy must be in writing and must*

- (a) be signed and dated by the landlord or tenant giving the notice,*
- (b) give the address of the rental unit,*
- (c) state the effective date of the notice,*
- (d) except for a notice under section 45 (1) or (2) [tenant's notice], state the grounds for ending the tenancy, and*
- (e) **when given by a landlord, be in the approved form.***

[Emphasis added.]

In this case, the landlord sent a letter requesting the tenants to vacate the rental unit by May 30, 2013. However, under the Act, when the landlord gives notice the end the tenancy it must be in the approved form. As a result, I find the landlord did not comply with the provisions of section 44 and 52 of the Act. Therefore, the letter issued by the landlord is not a valid notice to end the tenancy. The tenancy will continue until legally ended in accordance with the Act. The landlord's application for an order of possession is dismissed.

### Conclusion

The landlord's application is dismissed.

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: June 03, 2013

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Residential Tenancy Branch

