



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPQ, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession because the tenant no longer qualifies for a rental subsidy and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 49.1, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on February 16, 2007 for a month to month tenancy beginning on February 15, 2007 for rent to be determined based on the tenant's income that would be due on the 1<sup>st</sup> of each month;
- A copy of a 2 Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit issued February 19, 2013 with an effective April 30, 2013.

The landlord submitted that the tenant failed to provide income information when requested prior to February 2013 and that she still has not yet provided this information to the landlord.

The landlord testified the 2 Month Notice was served by mail on February 19, 2013. The tenant acknowledged received of the Notice in February 2013.

The tenant did not submit an Application for Dispute Resolution seeking to cancel the notice. The tenant testified during the hearing that she had no excuse for not getting the paper work required to the landlord.

### Analysis

Section 49.1 of the *Act* states if provided for in the tenancy agreement, a landlord may end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant ceases to qualify for the rental unit. Section 49.1(5) states that a tenant may dispute such a notice within 15 days of receiving it. Section 49.1(6) stipulates that if the tenant does not dispute the notice within that timeframe they are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

As the tenant acknowledges she received the Notice in February and had not filed an Application for Dispute Resolution to seek to cancel the Notice I find that, pursuant to Section 49.1(6) the tenant is conclusively presumed to have accepted the tenancy was to end.

### Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

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: July 25, 2013

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Residential Tenancy Branch