



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HFBC Housing Foundation  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for cause and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on February 06, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for cause?

### Background and Evidence

The landlord testifies that this tenancy was renewed with the current landlord on April 01, 2013. The parties entered into a new tenancy agreement for a month to month tenancy. Rent is \$789.00 per month and is due on the first day of each month. The tenant paid a security deposit of \$370.00 on April 15, 2013.

The landlord testifies that the tenant was served a One Month Notice to End Tenancy on December 12, 2013 by posting it to the tenant's door. The Notice has an effective date of January 31, 2014 and gives the following reasons to end the tenancy:

- 1) The tenant is repeatedly late paying rent.

The landlord has provided five copies of the 10 Day Notices issued to the tenant in May, July, September, October, and December, 2013 and rent receipts showing rent was paid late in February and March, 2014. These receipts also show that the landlord accepted the rent for use and occupancy only.

The landlord testifies that the tenant has failed to vacate the rental unit by the effective date of the Notice. The landlord therefore seeks an Order of Possession effective as soon as possible.

### Analysis

When a tenant is served with a One Month Notice to End Tenancy the tenant is provided with information on page two of that Notice about how the tenant can dispute the Notice by filing an application for Dispute Resolution. The landlord has provided a copy of this Notice served upon the tenant on December 12, 2013. As the Notice was posted to the tenant's door it was deemed to have been served three days later on December 15, 2013. The tenant has not disputed the One Month Notice within the 10 allowable days as indicated on page two of the Notice.

Consequently, as the tenant did not file an application to dispute the Notice the tenant is presumed to have accepted the end of the tenancy pursuant to s. 47(5) of the *Act*. The Notice indicates an effective date of January 31, 2014; however as this date has since passed the landlord is entitled to an Order of Possession for two days after service upon the tenant pursuant to s. 55 of the *Act*.

### Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service on the tenant**. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to be reimbursed for the **\$50.00** fee for filing this application. I Order that the landlord retain this amount from the security deposit of \$370.00 leaving a balance \$320.00 which must be returned to the tenant or otherwise dealt with in compliance with section 38 of the *Act*.

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, 2014

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Residential Tenancy Branch

