



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: **OPC, FF**

### Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for cause, as the result of an Order of government and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on May 17, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were personally given to the tenant, at the rental unit. Service occurred in the evening, to R.K. The landlord had a friend present as a witness.

The landlord also sent each tenant a hearing package, sent via registered mail. The landlord could not locate the tracking number or receipts during the hearing.

As tenant R.K. was personally given the hearing package and evidence, I find that he has been served effective the date of personal delivery, in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

In the absence of evidence that tenant N.B. was served, I find that the application is amended to remove N.B.

### Issue(s) to be Decided

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

### Background and Evidence

Rent is due on the 1<sup>st</sup> day of each month.

The landlord provided a copy of a 1 month Notice to end tenancy for cause issued on March 11, 2014. The Notice indicates that the tenancy must end effective April 30 2014, as the result of an Order of government.

The Notice was given to tenant R.K. on March 11, 2014. Service occurred at the rental unit, in the evening. Both landlord's were present.

The tenants did not dispute the Notice.

On June 17, 2014 the Residential Tenancy Branch received a letter signed by both tenants. The letter indicated that the tenants plan on vacating the rental unit effective July 1, 2014. The landlord had not seen this note but 3 or 4 days ago he spoke with the tenants, who told him they would be vacating.

The landlord accepted May rent for use and occupancy only. June rent has yet to be paid.

### Analysis

Section 90 of the Act stipulates that a document given personally is deemed served on the day of personal delivery. Therefore, I find that the tenants received the Notice to end tenancy on March 11, 2014.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenants are deemed to have received this Notice on March 11, 2014, I find that the earliest effective date of the Notice is April 30, 2014.

In the absence of evidence to the contrary, I find that the tenants were served with a Notice ending tenancy that required the tenants to vacate the rental unit on April 30, 2014, pursuant to section 46 of the Act.

Section 47 of the Act stipulates that a tenant has 10 days from the date of receiving the Notice ending tenancy to dispute the Notice. In the circumstances before me I have no evidence that the tenants exercised this right. Therefore, pursuant to section 47(5) of the Act, I find that the tenants accepted that the tenancy has ended on the effective date of the Notice; April 30, 2014.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenants. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order in the sum of \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to an Order of possession.

The landlord is entitled to filing fee costs.

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 19, 2014

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Residential Tenancy Branch

