



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Regent Hotel  
and [tenant name suppressed to protect privacy]

## **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 made application for an Order of possession for cause and to recover the filing fee cost.

The landlord provided a copy of a Canada Post registered mail receipt and tracking information, indicating service of notice of this hearing was sent to the tenant on May 22, 2014. The landlord used the tenant's rental unit address. The tenant failed to claim the mail and it has been returned to the landlord.

Therefore, I find, pursuant to section 89 and 90 of the Act that the tenant is deemed served with Notice of this hearing effective the 5<sup>th</sup> day after mailing.

### **Background and Evidence**

The tenancy commenced on January 1, 2014, rent is \$375.00 per month, due on the first day of each month. A security deposit in the sum of \$162.50 was paid.

The landlord provided affirmed testimony that on April 21, 2014 a 1 month Notice to end tenancy for cause issued on April 16, 2014 was personally delivered to the tenant on April 21, 2014 at 2 p.m. The landlord, another employee A.S. and a 3<sup>rd</sup> employee, L.A. were present when service was completed. A copy of the Notice supplied as evidence had a hand written note "handed over on 21 Apr 14 at 2 pm by L.A."

The Notice indicated that the tenant must apply to cancel the Notice within 10 days of receipt and that if he did not apply to dispute the Notice within 10 days the tenant was presumed to have accepted the Notice and that he must move out of the unit by the effective date of the Notice; May 30, 2014.

The landlord said there is no evidence that the tenant disputed the Notice and that he was last seen at the unit this past Saturday. The tenant continues to possess the unit.

### **Analysis**

The tenant failed to vacate the unit and was then served with Notice of this hearing; the tenant did not attend the hearing. There was no evidence before me that the tenant disputed the Notice.

Section 47(5) of the Act provides:

*(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*

*(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and*

*(b) must vacate the rental unit by that date.*

As the tenant failed to submit an application to cancel the Notice, I find that the tenant accepted that the tenancy ended on the effective date of the Notice, May 30, 2014. When the tenant refused to vacate, the landlord applied requesting an Order of possession. I find that the landlord attempted to give the tenant further notice that the tenancy had ended, but the tenant failed to retrieve the registered mail, notifying him of this hearing.

Therefore, in accordance with section 47(5) of the Act and section 55(2)(b) of the Act, the landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord is entitled to the \$50.00 filing fee costs which may be deducted from the security deposit, in accordance with section 72 of the Act. Therefore, the landlord is now holding a security deposit in the sum of \$110.50.

### Conclusion

The landlord is entitled to an Order of possession.

The landlord is entitled to filing fee costs which will be deducted from the security deposit.

This decision is final and binding 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: July 14, 2014

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Residential Tenancy Branch

