



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Baynes Lake Seniors Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Code:** OPC

### **Introduction**

This is the Landlord's application for an Order of Possession.

The parties gave affirmed testimony at the Hearing.

It was determined that the Landlord's Notice of Hearing documents were mailed to the Tenant at the rental unit, via registered mail, on July 22, 2014.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?

### **Background and Evidence**

The rental property is a senior's housing complex which provides subsidized independent living with minimum support.

The Landlord issued a Notice to End Tenancy for Cause on June 7, 2014 (the "Notice") and served the Tenant with the Notice by attaching a copy to the Tenant's door on June 7, 2014. The Tenant acknowledged receiving the Notice on June 7, 2014. The Tenant has not filed an Application to dispute the Notice.

The Tenant's agent RC stated that the Tenant has a medical condition and that the Landlord did not provide her with a copy of the Notice so that she could assist the Tenant in disputing it. She stated that she did not know it was an "official notice".

The Landlord's agents testified that they did not receive authority from the Tenant, or a written request from the Tenant's agent RC, to provide RC with a copy of the Notice.

The Landlord's agents asked for an Order of Possession and stated that the Order would not be enforced until October 31, 2014, if the Tenant complies with the rules and regulations of the rental property.

### **Analysis**

Sections 47(4) and (5) of the Act provide:

**Landlord's notice: cause**

**47** (4) A tenant may dispute a notice under this section by making an application for dispute resolution **within 10 days after the date the tenant receives the notice.**

(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.

[my emphasis added]

I explained to the Tenant that he was conclusively presumed under Section 47(5) of the Act to have accepted that the tenancy ended on July 31, 2014, because he did not dispute the Notice within 10 days of receipt. Furthermore, I explained that I could not entertain an application to extend the time to apply to cancel the Notice because of the provisions of Section 66(3) of the Act, which provides:

**Director's orders: changing time limits**

**66** (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 59 (3) *[starting proceedings]* or 81 (4) *[decision on application for review]*.

(2) Despite subsection (1), the director may extend the time limit established by section 46 (4) (a) *[landlord's notice: non-payment of rent]* for a tenant to pay overdue rent only in one of the following circumstances:

(a) the extension is agreed to by the landlord;

(b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Therefore, I find that the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

**Conclusion**

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Landlord's agents indicated that they would not attempt to enforce the Order of Possession until October 31, 2014, if the Tenant complied with the rules and regulations of the rental property.

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: September 23, 2014

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Residential Tenancy Branch

