



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SEA TO SKY COMMUNITY SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPQ

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession due to the Tenant not qualifying for a rent subsidy.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 8, 2014 and then again by personal delivery on September 22, 2014. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started on October 1, 2010 as a month to month tenancy. Rent is \$1,083.00 of which the Tenant pays \$177.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$542.00 in advance of the tenancy.

The Landlord said he issued a 2 Month Notice to End Tenancy as the Tenant no longer qualifies for the rent subsidy and now there is unpaid rent of approximately \$1,100.00. The Landlord said that the rent subsidy is governed by BC Housing and it is a requirement of BC Housing in order to receive this rent subsidy the Tenant's child has to live in the rental unit 40% on the time. The Landlord said the Tenant's child has not lived in the rental unit 40% of the time for over one year. As a result the Tenant does not qualify for the rent subsidy. The Landlord said he is requesting an Order of Possession for as soon as possible.

Further the Landlord said the Tenant has not completed a rent subsidy application so the rent subsidy has now been removed and the rent the Tenant is now responsible for is \$1,083.00.

### Analysis

Section 49.1 (2) of the Act says a landlord may end a tenancy by giving a Notice to End Tenancy if the Tenant does not qualify for a rent subsidy. The Landlord issue a 2 Month Notice to End Tenancy dated April 29, 2014 on April 29, 2014 by posting it on the door of the Tenant's rental unit. In addition the Landlord wrote a letter to the Tenant on May 1, 2014 further explaining the Notice to End Tenancy and what the Tenant had to do to re-instate the subsidy. The Tenant has not disputed the Notice to End Tenancy and did not attend the hearing therefore; I find in favour of the Landlord.

Section 49.1 (5) of the Act states that **within 15 days of receiving** a Notice to End Tenancy because a tenant does not qualify for a subsidy, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 49.1 (6) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was posted on the door, or on May 1, 2014. Consequently, the Tenant would have had to apply to dispute the Notice by May 15, 2014.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: October 07, 2014

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Residential Tenancy Branch

