



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

OPC; MND; MNDC; MNR; FF

### **Introduction**

This is the Landlords' application for an Order of Possession; a monetary award for damages, unpaid rent and loss of revenue; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent testified that she served the Tenant with the Notice of Hearing documents and copies of the Landlords' documentary evidence, by posting the documents to the Tenant's door on October 16, 2014.

The Tenant signed into the teleconference and acknowledged receiving the documents. Therefore, I find that the Tenant was sufficiently served pursuant to the provisions of Section 72 of the Act.

### **Issues to be Decided**

- Are the Landlords entitled to an Order of Possession?
- Are the Landlords entitled to a Monetary Order?

### **Background and Evidence**

The Landlords' agent stated that she served the Tenant with a One Month Notice to End Tenancy for Cause on September 28, 2014 (the "Notice") by attaching a copy of the Notice to the Tenant's door.

The Tenant acknowledged receipt of the Notice. The Tenant has not filed an Application for Dispute Resolution seeking to cancel the Notice.

The Landlord's agent stated that the Tenant has not paid rent for September, October or November, 2014. She stated that rent is due on the first day of each month

The Landlord's agent stated that the Tenant is disturbing other occupants in the rental property and that he broke a door in the rental property. She testified that the police were called to the rental property because of the Tenant's actions. The Landlords seek a monetary award in the total amount of \$1,300.00.

The Tenant testified that he always pays rent on the last day of each month. He stated that the Landlords' agent doesn't know what she is talking about. The Tenant stated that he has no money and that he will be homeless if he is evicted.

### **Analysis**

I am satisfied that the Notice was posted to the Tenant's door on September 28, 2014. Service in this manner is deemed to be effected 3 days after posting the documents, October 1, 2014. Section 47(4) of the Act provides that a tenant may dispute a notice to end tenancy for cause by filing an application to cancel the notice within 10 days of receipt of the notice. Section 47(5) of the Act states that if the tenant does not file such an application, the tenant is **conclusively presumed** to have accepted the tenancy ends on the effect date of the notice and **must** vacate the rental unit.

Section 53 of the Act provides that an incorrect end-of-tenancy date on a notice to end tenancy is automatically corrected to the earliest date that complies with the Act. Therefore, I find that the tenancy ends on November 30, 2014, and that the Landlords are entitled to an Order of Possession.

With respect to the Landlords' request for a monetary award, I find that the Landlords did not provide sufficient evidence to support this portion of their claim.

To prove a loss and have the Tenant pay for the loss requires the Landlords to satisfy four different elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the Tenant in violation of the Act,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the Landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In this case, the Landlords provided insufficient documentary evidence to support their claim that the Tenant owed rent for September, October and November. They did not file a Monetary Order Worksheet with their application, setting out how they arrived at

their claim for \$1,300.00. They did not provide a tenancy agreement, or an invoice for the cost of repairing or replacing a door. Therefore, this portion of their application is **dismissed without leave to reapply**.

The Landlords have been partially successful in their application and I find that they are entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

### **Conclusion**

I hereby provide the Landlords with an Order of Possession effective **1:00 p.m. November 30, 2014**, for service upon the Tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlords with a Monetary Order in the amount of **\$50.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

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: November 26, 2014

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Residential Tenancy Branch

