



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Fraserside Community Services / Vancouver Eviction Services  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes: OPC, FF

### Introduction

This hearing concerns the landlord's application for an order of possession for cause / and recovery of the filing fee. Agents representing the landlord attended and gave affirmed testimony. The tenant did not appear.

The landlord's agents testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by registered mail. Evidence submitted by the landlord includes the tracking number for the registered mail. The Canada Post website informs that the item was "accepted at the Post Office" on October 18, 2014, that it was "unclaimed by recipient," and that it was then returned to the sender.

Pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, I find that the hearing package is deemed to have been received by the tenant on October 23, 2014, which is the "5<sup>th</sup> day after it is mailed."

### Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on or about December 24, 2013. Monthly rent of \$375.00 is due and payable in advance on the first day of each month, and a security deposit of \$187.50 was collected.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice dated August 28, 2014. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is September 30, 2014. The reason identified on the notice in support of its issuance is as follows:

Tenant is repeatedly late paying rent

The landlord's agents testified that rent has been paid late for each of the 8 months from January to August 2014, and that no rent whatsoever has been paid for September, October or November 2014.

The landlord filed an application for dispute resolution on October 09, 2014. There is no evidence before me that the tenant filed an application to dispute the notice, and he continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

Section 47(1)(b) of the Act provides as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(b) the tenant is repeatedly late paying rent;

Residential Tenancy Policy Guideline # 38 speaks to "Repeated Late Payment of Rent," and provides in part:

Three late payments are the minimum number sufficient to justify a notice under these provisions.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agents, I find that the tenant was personally served with a 1 month notice to end tenancy for cause dated August 28, 2014. The tenant did not dispute the notice within 10 days of receiving the notice. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Following from all of the above, I find that the landlord has established entitlement to an **order of possession**.

As the landlord has succeeded with the main aspect of this application, I find that the landlord has also established entitlement to recovery of the **\$50.00** filing fee. I order that the landlord withhold \$50.00 from the tenant's security deposit in order to recover the filing fee.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord recover the filing fee by way of withholding **\$50.00** from the tenant's security deposit.

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 25, 2014

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Residential Tenancy Branch

