



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SANFORD HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on November 07, 2014, to obtain an Order of Possession for cause.

The hearing was conducted via teleconference and was attended by the Landlord who provided affirmed testimony. The Landlord provided documentary evidence that the Tenant was served notice of his application and this hearing by registered mail on November 12, 2014. Canada Post tracking information confirms that Canada Post attempted delivery of the package on November 14, 2014 and that a notice card was left that date to advise the tenant they could pick up the registered mail. The tracking information also confirms Canada Post gave a second and final notice on November 19, 2014 that the registered mail was available for pick up.

As of November 20, 2014 Canada Post tracking information confirms that the tenant still did not pick up the registered mail and it was returned to the Landlord. Based on this information, I find that the Tenant was provided with 3 opportunities to receive the registered mail and he did not make an attempt to retrieve it. I find this to be a deliberate effort on the part of the Tenant to avoid service and I find the Tenant was sufficiently served with Notice of this hearing, pursuant to Section 71 of the *Act*.

### Issue(s) to be Decided

Has the Landlord proven entitlement to an Order of Possession?

### Background and Evidence

The Landlord submitted that the parties executed a written tenancy agreement for a fixed term tenancy that commenced on April 1, 2014, that switched to a month to month after August 31, 2014. The Tenant was required to pay subsidized rent of \$375.00 and the Tenant paid \$300.00 as the security deposit based on market value rent of \$1,163.00.

The Landlord submitted into evidence copies of photographs of the rental unit and copies of warning letters that have been issued to the Tenant pertaining to the excessive storage of materials inside his rental unit. The Landlord stated that the warning letters were posted to the Tenant's door on May 29, 2014, June 19, 2014, and September 18, 2014. The Landlord argued that the unit is filled so much with possessions that they can only open the door about 8" and now there is no path for egress.

The Landlord testified that when the Tenant failed to clean up his unit, as requested in the warning letters, they posted a 1 Month Notice to end tenancy to his door on September 26, 2014.

The Notice was issued pursuant to Section 47(1) of the Act for the following reasons:

- Tenant or a person permitted on the property by the tenant has:
  - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
  - Put the Landlord's property at significant risk
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

The Tenant has not disputed the Notice and has not cleaned up his unit, so the Landlord is seeking an Order of Possession.

### Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

Upon review of the 1 Month Notice to End Tenancy issued September 26, 2014, I find the Notice to be completed in accordance with the requirements of the Act and I find that it was served upon the Tenant in a manner that complies with the Act. The effective date of the Notice was **October 31, 2014**.

Section 47(4) of the Act stipulates that 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.

In this case the Tenant would have had to file their application for dispute no later than October 10, 2014. At the time the Landlord filed their application for an Order of

Possession on November 7, 2014, the Tenant had not made application to dispute the 1 Month Notice.

Section 47(5) of the Act stipulates that 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.

Based on the above, I find the Landlord has met the burden of proof, and I grant their request for an Order of Possession.

### Conclusion

The Landlord has been granted an Order of Possession effective **Two (2) Days after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court 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: December 12, 2014

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Residential Tenancy Branch

