



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## 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. The landlord attended and gave affirmed testimony.

The landlord's application for dispute resolution was filed on November 26, 2014. The landlord testified that the application and the notice of hearing (the "hearing package") were served on the tenant by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the item was "accepted at the Post Office" on November 28, 2014. The Canada Post website also informs that on December 02, 2014, there was "Attempted delivery. Notice card left indicating where item can be picked up." Despite all of the foregoing, the tenant did not appear at the hearing.

### 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 for this tenancy which the landlord testified began several years ago. Monthly rent of \$600.00 is due and payable in advance on the first day of each month. Neither a security deposit nor a pet damage deposit was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy for cause dated October 31, 2014. The landlord testified that the notice was served by way of posting to the unit door on that same date. The landlord further testified that the reason identified on the notice in support of its issuance is as follows:

Tenant is repeatedly late paying rent

The tenant did not apply to dispute the notice and he continues to reside in the unit. The landlord testified that the tenant has been late in his full payment of rent for many months during the current calendar year, and that these months include September, October and November 2014.

### 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 of the Act provides in part:

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 mainly on the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated October 31, 2014. As the tenant did not dispute the notice within 10 days of receiving it, the tenant is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As the notice was served by way of posting on the unit door on October 31, 2014, pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, I find that the notice is deemed to have been received 3 days later on November 03, 2014. In the result, I find that the effective date of the notice is **December 31, 2014**.

As the landlord has succeeded with the main aspect of his application, I find that he has also established entitlement to recovery of the **\$50.00** filing fee, and I hereby issue a **monetary order** in favour of the landlord for that amount.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **December 31, 2014**. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$50.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims 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 22, 2014

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Residential Tenancy Branch

