



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Greater Victoria Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

OPC MNR FF MT CNC

### Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for an order of possession pursuant to a notice to end tenancy and a monetary order for unpaid rent. The tenant applied to cancel the notice to end tenancy and an extension of time to make the application. Both the landlord and the tenant participated in the teleconference hearing.

During the hearing the landlord indicated that they wished to withdraw their monetary claim. I therefore dismissed the landlord's monetary claim with leave to reapply.

### Preliminary Issues

#### *Tenant's Request for Adjournment*

The tenant stated that his advocate had all of his evidence, and on Thursday, April 9, 2015 the advocate told the tenant that he would not be helping the tenant with the hearing. The tenant stated that he was unable to retrieve his evidence before the hearing on April 13, 2015 at 11:00 a.m. because the advocacy office was not open yet.

I informed the parties that I would proceed to hear from the tenant about his application for an extension of time, and if it was necessary I would consider an adjournment later in the hearing. It was not necessary for me to grant an adjournment after hearing the evidence regarding the tenant's application for an extension of time.

#### *Tenant's Application for an Extension of Time*

The landlord served the tenant with the notice to end tenancy for cause by registered mail sent on February 15, 2015. The landlord submitted a printout from the Canada Post website, which showed that the tenant was served with two notices to pick up the registered mail, one on February 20, 2015 and the second on February 25, 2015. The tenant picked up the notice on March 2, 2015. The tenant made his application to dispute the notice on March 10, 2015.

The parties agreed that on February 20, 2015 the tenant called the landlord. The landlord stated that he told the tenant about the notice to end tenancy. The tenant stated that he told the landlord that he was not going to pick up an eviction notice for something he didn't do.

When a document is sent by registered mail, it is deemed to have been received five days after mailing. In this case, the tenant would have been deemed to have been served with the notice on February 21, 2015. The tenant then would have had 10 days to apply to dispute the notice. In this case, the deadline for disputing the notice would have been March 3, 2015. The tenant applied seven days late.

I found that by not picking up the registered mail package containing the notice to end tenancy until March 2, 2015, the tenant was attempting to avoid service. The tenant did not provide evidence that extraordinary circumstances prevented him from applying in time. I therefore dismissed the tenant's application for an extension of time and to cancel the notice to end tenancy.

The landlord applied for and is entitled to an order of possession. The landlord stated that the tenant had paid rent for the month of April 2015, and he did not object to the order of possession being set for April 30, 2015.

As the landlord's application was successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

### Conclusion

The tenant's application is dismissed.

I grant the landlord an order of possession effective April 30, 2015. The tenant must be served with the order of possession. 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.

The landlord may retain \$50 from the tenant's security deposit in order to recover their filing fee.

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: April 16, 2015

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Residential Tenancy Branch

