



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MNR, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for cause and Monetary Order for unpaid rent for the month of March 2015. The tenant did not appear at the hearing. The landlord testified that she posted the hearing package on the tenant's door on March 4, 2015 and the landlord confirmed that the tenant is still residing in the rental unit.

Pursuant to section 90 of the Act, documents posted to the door of a rental unit are deemed to be received three days after posting. Based upon the undisputed testimony before me, I found the tenant was deemed to have received the hearing documents three days after they were posted on her door and I continued to hear from the landlord without the tenant present.

Under section 89 of the Act, which provides for ways hearing packages must be served, posting on the door is sufficient for purposes of seeking an Order of Possession but not a Monetary Order. Nevertheless, the landlord also testified that rent for March 2015 was paid by the tenant after the landlord filed this Application. Therefore, a Monetary Order does not accompany this decision.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The landlord testified that the tenancy commenced in June 2011 for a one year fixed term that converted to a month to month tenancy thereafter. The monthly rent was set at \$900.00 due on the 1<sup>st</sup> day of the month. The rent was set to increase effective April 1, 2015; however, on January 29, 2015 the landlord issued a 1 Month Notice to End Tenancy for Cause (the Notice) with a stated effective date of March 1, 2015. The

landlord testified that she posted the Notice on the tenant's door on January 29, 2015. The tenant did not file to dispute the Notice.

The landlord testified that on March 5, 2015 the tenant paid rent which the landlord accepted for use and occupancy for the month of March 2015 since this hearing was scheduled for April 1, 2015.

The landlord provided a copy of the 1 Month Notice to End Tenancy for Cause and seeks an Order of Possession effective as soon as possible.

### Analysis

A tenant who receives a 1 Month Notice to End Tenancy for Cause has 10 days to file an Application for Dispute Resolution to dispute the Notice and if the tenant does not then, pursuant to section 47(5) of the Act, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date and must vacate the rental unit by that date.

I accept the undisputed testimony of the landlord that a 1 Month Notice to End Tenancy for Cause was posted on the tenant's door on January 29, 2015. Pursuant to section 90 of the Act, the tenant is deemed to have received the Notice three days later on February 1, 2015. As such, the tenant had until February 11, 2015 to file an Application to dispute the Notice, which she did not, and the tenant is conclusively presumed to have accepted that the tenancy would end on the effective date of the Notice.

Under section 47(2), the effective date of a 1 Month Notice must be no earlier than one month after it is received and on a date that is the day before rent is due. Having found the tenant received the Notice on February 1, 2015 I find the earliest effective date of the subject Notice is March 31, 2015 and under section 53 of the Act the effective date automatically changes to read March 31, 2015.

In light of all of the above, I find the tenancy ended as of March 31, 2015. Therefore, I find the landlord entitled to regain possession of the rental unit as of that date and I grant the landlord's request for an Order of Possession. Since the tenancy has already ended, I **provide the landlord an Order of Possession effective two (2) days after service upon the tenant.**

I make no award for recovery of the filing fee as I am satisfied that the tenant was legally entitled to possession of the rental unit when the landlord filed this Application.

Conclusion

The tenancy has ended and the landlord is provided an Order of Possession effective two (2) days after it is served upon the tenant.

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 01, 2015

---

Residential Tenancy Branch

