



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes            CNQ

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on October 27, 2014 seeking to obtain a Monetary Order for: damage to the unit, site or property; for unpaid rent or Utilities; to keep all or part of the security and or pet deposit; for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Tenant who gave affirmed testimony. No one appeared on behalf of the Landlord.

The Tenant provided documentary evidence that the Landlord was served notice of this application and this hearing by registered mail on May 20, 2015. Canada Post tracking information confirmed that Canada Post attempted delivery of the package on May 25, 2015 and that a notice card was left that date to advise the Landlord they could pick up the registered mail. The tracking information also confirmed Canada Post gave a second and final notice on June 1, 2015 that the registered mail was available for pick up.

The Tenant testified that the registered mail package had been returned to her and was marked "unclaimed". She submitted that approximately one week after she sent the registered mail with her application and hearing documents she had to call the Landlord to advise she had a leaky hot water tank. She said that during that conversation the Landlord asked her if she was moving out and she told the Landlord that she had filed to dispute the eviction Notice.

Based on the information, I find that the Landlord was provided with 3 opportunities to receive the registered mail and they did not make an attempt to retrieve it, despite the Tenant informing them that she had disputed the Notice. I find the Landlord's failure to receive the registered mail to be a deliberate effort on the part of the Landlord to avoid service. Therefore, I conclude the Landlord was sufficiently served with Notice of this hearing, pursuant to Section 71 of the Act, and I continued in absence of the Landlord.

### Issue(s) to be Decided

Should the 2 Month Notice to end tenancy issued April 27, 2015 be upheld or cancelled?

### Background and Evidence

The Tenant submitted that she entered into a written month to month tenancy agreement that began on May 15, 2014. Rent is subsidized based on her annual income report. Her current rent

payable is \$600.00 per month and is due on or before the first of each month. On or around May 15, 2014, the Tenant paid \$400.00 as the security deposit based on market value rent.

The Tenant testified that on April 28, 2015 she found a 2 Month Notice to end tenancy (form RTB-32) slid into her door jam. The Notice was signed by the Landlord on April 27, 2015 and listed an effective date of June 30, 2015. The reason listed on the second page of the Notice was "Tenant no longer qualifies for the subsidized rental unit".

The Landlord did not submit evidence to prove the reasons why the 2 Month Notice was served upon the Tenant, as the Landlord was not represented at the hearing.

### Analysis

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

Where a Notice to End Tenancy comes under dispute, the Landlord has the burden to prove the tenancy should end for the reason(s) indicated on the Notice. The burden of proof is based on the balance of probabilities, meaning the events as described by one party are more likely than not.

62(2) the director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

No evidence was submitted by the Landlord to prove the merits of the 2 Month Notice issued April 27, 2015. Accordingly, I grant the Tenant's application and cancel the 2 Month Notice, pursuant to section 62 of the Act.

### Conclusion

The Tenant has been successful with her application. The 2 Month Notice to end tenancy issued April 27, 2015 is HEREBY CANCELLED and is of no force or effect.

This tenancy continues until such time as it is ended in accordance with the Act.

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: July 06, 2015

---

Residential Tenancy Branch

