



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNC, OPC, LRE, FF

### Introduction

This hearing was convened in response to cross applications.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to set aside a Notice to End Tenancy for Cause and for an Order suspending or setting conditions on the Landlord's right to enter the rental unit.

The Landlord filed an Application for Dispute Resolution in which the Landlord applied for an Order of Possession and to recover the fee for filing an Application for Dispute Resolution.

The Landlord stated that on August 20, 2015 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord submitted with the Application for Dispute Resolution were sent to the Tenant, via registered mail, at the rental unit. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

On October 05, 2015 the Landlord submitted additional documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were served to the Tenant by registered mail on October 05, 2015. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

### Preliminary Matter

This hearing commenced at the scheduled start time of 10:30 a.m. on October 21, 2015 and by the time the hearing was the Tenant had not appeared. As the Tenant did not appear in support of his Application for Dispute Resolution, I find that he did not

diligently pursue his Application for Dispute Resolution and I dismiss it without leave to reapply.

### Issue(s) to be Decided

Should the Landlord be granted an Order of Possession?

### Background and Evidence

The Landlord stated that:

- the Tenant moved into the rental unit prior to the Landlord entering into a tenancy agreement with the Tenant;
- when the Tenant first moved into the rental unit he had a tenancy agreement with someone who was leasing the residential complex from the Landlord;
- the Landlord and the Tenant entered into a written tenancy agreement on April 01, 2015;
- the Tenant agreed to pay rent of \$500.00 by the first day of each month;
- on July 25, 2015 he personally served the Tenant with a One Month Notice to End Tenancy for Cause;
- the Notice to End Tenancy declared that the Tenant must vacate the rental unit by September 01, 2015;
- the Notice to End Tenancy declared that the Landlord is ending the tenancy to comply with a government order;
- the Tenant is still occupying the rental unit;
- the Landlord is ending the tenancy because he received an order from the fire department requiring him to return the multi tenancy premises to a single tenancy premises;
- when the order was issued by the fire department the residential complex was being occupied by five tenants, each of whom had a separate tenancy agreement;
- he is attempting to end all five tenancies; and
- he thinks there are three or four people occupying the residential complex at this time.

The Landlord submitted a copy of an order from the municipal fire department, dated November 04, 2014, which declared, in part, that the rental unit must be converted from a "multi tenancy premises to a single tenancy premises forthwith.

The Landlord submitted a copy of the One Month Notice to End Tenancy for Cause that is the subject of this dispute, which is signed by the Landlord but is not dated. He stated that although the Notice to End Tenancy was not dated by the Landlord the Tenant signed the Proof of Service to acknowledge receipt of the Notice to End Tenancy. The Proof of Service, which was submitted in evidence, appears to have been signed by the Tenant to acknowledge receipt of the Notice to End Tenancy on July 25, 2015.

## Analysis

Section 47(1)(k) of the *Act* authorizes a landlord to end a tenancy if a rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority, providing the landlord serves the tenant with a valid One Month Notice to End Tenancy.

On the basis of the testimony of the Landlord and in the absence of evidence to the contrary, I find that on July 25, 2015 the Landlord personally served the Tenant with a One Month Notice to End Tenancy for Cause.

Section 47(3) of the *Act* stipulates that a notice to end tenancy served pursuant to section 47 of the *Act* must comply with section 52 of the *Act*. Section 52(a) of the *Act* stipulates that to be effective a notice to end tenancy must be signed and dated by the landlord or the tenant giving the notice.

In the circumstances before me I find that the Landlord did not sign the One Month Notice to End Tenancy that was served to the Tenant on July 25, 2015. I therefore find that the Notice was not effective, as it did not comply with section 52(a) of the *Act*. As the One Month Notice to End Tenancy was not effective, I dismiss the Landlord's application for an Order of Possession on the basis of the Notice.

I find that the Landlord's Application for Dispute Resolution is without merit and I dismiss his application to recover the fee for filing an Application.

## Conclusion

The Landlord's Application for Dispute Resolution has been dismissed in its entirety. The Landlord retains the right to serve the Tenant with another Notice to End Tenancy if he wishes to end this tenancy in accordance with section 47 of 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 *Act*.

Dated: October 21, 2015

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Residential Tenancy Branch