



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: OPC, FF

### Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession / and recovery of the filing fee. Landlord "PS" attended and gave affirmed testimony. Neither tenant appeared.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "unclaimed by recipient." Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants have been served in accordance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

### Issue(s) to be Decided

Whether the dispute is within the jurisdiction of the Act.

If the dispute is within the jurisdiction of the Act, whether the landlords entitled to an order of possession and recovery of the filing fee.

### Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from September 15, 2014 to September 15, 2015. The agreement provides that at the end of the fixed term, "tenancy may continue on a month-to-month basis or another fixed length of time." Monthly rent of \$2,200.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,100.00 was collected.

Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlords issued a 1 month notice to end tenancy dated July 31, 2015. The notice was served by "leaving a copy with an adult who apparently lives with the tenant," and by "attaching a copy on the door or other conspicuous place." The date shown on the notice by when the tenants must vacate the unit is August 31, 2015. The reason identified on the notice in support of its issuance is as follows:

Tenant has engaged in illegal activity that has, or is likely to:

- jeopardize a lawful right or interest of another occupant or the landlord

The tenants did not file an application to dispute the notice, and they continue to reside in the unit. The landlords filed their application on October 06, 2015.

Additional documentary evidence submitted by the landlords includes correspondence from a by-law enforcement officer with the applicable local government authority. In the correspondence the by-law enforcement officer documents, in part, that a “recent inspection of the [unit] has revealed that you are permitting a drug / alcohol recovery home on your property....” and that “zoning does not permit this use on the property.”

Related to the foregoing, the tenancy agreement names the tenant(s) as the “[name deleted for purposes of confidentiality] Recovery Centre.”

### Analysis

Section 4 of the Act addresses **What this Act does not apply to**, in part:

4 This Act does not apply to

(g) living accommodation

(vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,...

Based on the documentary evidence and the affirmed / undisputed testimony of landlord “PS,” I find that the unit which is the subject of this dispute is “made available in the course of providing rehabilitative or therapeutic treatment or services,” specifically, a “drug / alcohol recovery home.” Accordingly, I find that the dispute does not fall within the jurisdiction of the Act. The merits of the application will therefore not be considered.

### Conclusion

Following from the above, I decline jurisdiction in this dispute.

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: November 10, 2015

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Residential Tenancy Branch

