



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Victoria Cool Aid Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession for cause.

An agent for the landlord society attended the hearing with a witness. The landlord's agent and the witness each gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution and notice of this hearing, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the call were the landlord's agent and the witness. The landlord's witness testified that the tenant was served personally by him with the hearing package on October 9, 2015 at the rental unit, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on April 1, 2014, however the tenant resided in a different unit within the multi-unit complex prior. Rent for this unit is \$375.00 per month and there are no rental arrears. The tenant still resides in the rental unit. At the outset of the previous tenancy the landlord collected a security deposit from the tenant in the amount of \$190.00, which was transferred to this tenancy, and is still held in trust by the landlord. A copy of the tenancy agreement has not been provided.

The landlord's agent testified that she personally served the tenant with a 1 Month Notice to End Tenancy for Cause (the notice) on August 26, 2015 at the rental unit. A

copy of the notice has been provided and it is dated August 26, 2015 and contains an effective date of vacancy of September 30, 2015. The reasons for issuing the notice are:

- Tenant or a person permitted on the property by the tenant has:
  - Significantly interfered with or unreasonably disturbed another occupant or the landlord;
  - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord.

The landlord's agent testified that on August 3, 2015 a fire alarm in the building sounded and staff went to the tenant's rental unit and observed flames on the stove, but the tenant would not open the door. The fire department was called and attempted to gain entry but the tenant could be seen holding the door shut.

The landlord had cause to issue the notice, and the landlord has not been served with an application for dispute resolution by the tenant disputing the notice.

The landlord seeks an Order of Possession, and waives the filing fee.

### Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 1 Month Notice to End Tenancy for Cause, the tenant has 10 days to dispute it by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit by the effective date contained in the notice.

In this case, I accept the testimony of the landlord's agent that the tenant was served with the notice on August 26, 2015 personally, and the landlord has not been served with an application for dispute resolution by the tenant disputing the notice, and I have no such application before me. Therefore, I find that the tenant has not disputed the notice and the tenant is conclusively presumed to have accepted the end of the tenancy.

The effective date of vacancy has already passed and therefore, I grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

This order is final and binding and may be enforced.

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 27, 2015

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Residential Tenancy Branch

