



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Veneto Enterprises Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

**OPC, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession for cause and to recover the filing fee cost.

The landlord provided affirmed testimony that the tenant was served with a copy of the application for dispute resolution and evidence on February 03, 2016. The landlord sent the registered mail to the tenants' rental unit address. The mail was not returned. The 23 page evidence submission included a copy of the Notice ending tenancy issued on December 19, 2015.

Therefore, I find that the tenant is deemed served with the hearing documents and evidence on the fifth day after mailing; in accordance with section 90 of the Act. The tenant did not attend the hearing.

### **Background and Evidence**

The tenancy commenced on March 13, 2009. Rent is due on the first day of each month. A copy of the tenancy agreement was supplied as evidence.

The landlord testified that on a 1 month Notice to end tenancy for cause was served to the tenant via registered mail sent to the rental unit address on December 23, 2015. The landlord provided a copy of the registered mail tracking information that showed the mail was unclaimed and returned to the landlord on January 20, 2016

The Notice indicated that the tenant must apply to cancel the Notice within 10 days of receipt and that if the tenant did not apply to dispute the Notice within 10 days the tenant was presumed to have accepted the Notice and that he must move out of the unit by the effective date of the Notice; January 31, 2016.

The reasons stated for the Notice to End Tenancy were that the tenant had:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful interest of another occupant or the landlord; and*
- *breach of a material term of the tenancy that was not corrected within a reasonable time after written notice to do so.*

The Notice indicated that the tenant had 10 days to dispute the Notice.

The hearing concluded after 10 minutes; the tenant did not enter the conference call.

### Analysis

The tenant was given a copy of the Notice ending tenancy via registered mail that the tenant failed to claim. Refusal or a failure to claim registered mail does not allow a party to avoid service of documents. Therefore, I find, pursuant to section 90 of the Act, that effective December 28, 2015 the tenant is deemed to have received a copy of the 1 month Notice ending tenancy for cause issued on December 19, 2015. There was no evidence before me that the tenant disputed the Notice.

I find that the tenant was also provided with a copy of the Notice effective February 8, 2016, when the hearing documents and evidence were deemed served.

Section 47(5) of the Act provides:

*(5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant*

*(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and  
(b) must vacate the rental unit by that date.*

As there was no evidence before me that the tenant submitted an application to cancel the Notice, I find that the tenant accepted that the tenancy ended on the effective date of the Notice, January 31, 2016.

Therefore, based on sections 40(5) and 48(2)(b) of the Act, I find that the landlord is entitled to an Order of possession that is effective two days after it is served to the tenant. The time for making an application to dispute the Notice has passed.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

As the application has merit I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant.

Based on these determinations I grant the landlord a monetary Order in the sum of \$100.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

### Conclusion

The landlord is entitled to an Order of possession.

The landlord is entitled to the filing fee cost.

This decision is final and binding and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 55(1) of the *Manufactured Home Park Tenancy Act*.

Dated: March 17, 2016

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Residential Tenancy Branch

