



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            OPC

### Introduction

The Application for Dispute Resolution filed by the landlord seeks an Order for Possession pursuant to a one month Notice to End Tenancy for cause.

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. I determined that the Tenant continues to reside in the rental property despite the fact that she spends time at a boyfriend's rental unit.

I find that the one month Notice to End Tenancy was served on the Tenant by mailing, by registered mail to where the Tenant resides (the rental unit) on February 8, 2016 and that it was sufficiently served even though the tenant failed to pick up the registered mail letter. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail to where the Tenant resides (the rental unit) on March 7, 2016 and that it was sufficiently served even though the Tenant failed to pick up the registered mail package. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided:

The issue to be decided is whether the landlord is entitled to an Order for Possession?

### Background and Evidence

The landlord is the registered owner of the rental property. In 1992 he entered into a common law relationship with the Tenant. In 1995 he moved back to Saskatchewan. In 2002 the landlord and the Tenant entered into an inter-spousal agreement that provided that the tenant could remain living in the rental unit with the children of the relationship rent free until the youngest child was 18. The inter spousal agreement provided that the tenant was obliged to pay the strata fees.

The tenant paid the strata fees until 2010. However, she has not paid the strata fees since then. The landlord has paid the strata fees and has not been reimbursed.

The inter-spousal agreement contained provisions relating to the lease of the rental unit and provided that the Residential Tenancy Act of British Columbia was to apply.

The landlord inspected the rental unit in January and became concerned about the condition of the rental unit which prompted the service of the one month Notice to End Tenancy. The landlord also stated that his youngest daughter (who is a few days short of her 19<sup>th</sup> birthday) is living there. The tenant spends much of her time at her boyfriend's place in a nearby community.

The landlord stated he wants to make repairs to the rental property so that it can be put up for sale in the summer. He intends to permit his youngest daughter to remain in the rental unit until that time.

Analysis - Order of Possession:

I determined that the Residential Tenancy Act applies as it is specifically incorporated into the lease provisions of the inter-spousal agreement.

I determined the landlord was entitled to an Order for Possession. The Tenant(s) has not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession. I set the effective date of the Order for Possession for 14 days after service on the Tenant as this would give the Tenant a reasonable time to remove any possessions that remain in the rental unit.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: April 06, 2016

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Residential Tenancy Branch

