



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by personal delivery on June 9, 2016. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the absence of the Tenant.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started in May, 2014 as a month to month verbal tenancy. The Tenant paid a security deposit of \$250.00 at the start of the tenancy.

The Landlord said she issued a 1 Month Notice to End Tenancy for Cause dated May 23, 2016 by personal delivery to the Tenant on May 23, 2016. The Notice to End Tenancy has an effective vacancy date of June 30, 2016 on it. The Landlord continued to say she issued the Notice to End Tenancy and because the Tenant has not dispute the Notice to End Tenancy the tenancy should end and the Landlord requested an Order of Possession for as soon as possible.

### Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 47(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it was served, or on May 23, 2016. Consequently, the Tenant would have had to apply to dispute the Notice by June 2, 2016.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter she is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant. I order the Landlord to retain \$100.00 from the Tenant's security deposit as full payment of the filing fee for this proceeding.

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: July 11, 2016

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Residential Tenancy Branch