



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL

### Introduction

This was a hearing with respect to the landlord's application for an order of possession. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not attend the hearing. The landlord sent the application for dispute resolution, the Notice of Hearing and the hearing package to the tenant by registered mail sent on June 11, 2016. Canada Post attempted to deliver the registered mail and left notices advising the tenant where to pick up the registered mail. The tenant did not claim the registered mail. Failing to pick up registered mail is not a legitimate reason for failure to attend a hearing. Pursuant to section 90 of the *Residential Tenancy Act* the tenant is deemed to have received the registered mail on the fifth day after it was mailed, which was on June 16, 2016.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to a 2 month Notice to End Tenancy for landlord's use of the rental property?

### Background and Evidence

The rental unit is a residential suite on Galiano Island. The landlord has advised the tenant that he requires the property for his own use. The landlord served the tenant with a two month Notice to End Tenancy for landlord's use dated May 17, 2016. The Notice to End Tenancy requires the tenant to move out of the rental unit by August 1, 2016. The reason for the Notice is that the rental unit will be occupied by the landlord or a close family member. The landlord intends to use the unit for his studio and for occupancy by his son. The landlord sent the Notice to End Tenancy to the tenant by registered mail on May 19, 2016. Canada Post attempt to deliver the registered mail to the tenant, but on May 25, 2016 the tenant refused to accept the registered mail and it was returned to the landlord. The tenant has ceased paying rent for the rental unit.

### Analysis

The landlord provided a copy of the Two Month Notice to End Tenancy. The Notice was in the proper form and complied with the requirements of the *Residential Tenancy Act*. It was sent to the tenant by registered mail which is a valid means of service pursuant to section 89 of the *Residential Tenancy Act*. The tenant's refusal to accept delivery of the registered mail does not defeat the deemed service provisions of the *Residential Tenancy Act*. Pursuant to section 90, the tenant was deemed to have been served with the Notice to End Tenancy on May 24, 2016, the fifth day after it was mailed.

Pursuant to section 49(8) of the *Residential Tenancy Act* the tenant had 15 days to apply for dispute resolution to dispute the Notice to End Tenancy. Because the tenant did not apply to dispute the Notice to End Tenancy as provided by section 49(9) of the *Act*, he is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and he must vacate the rental unit by that date.

The effective date of the Notice to End Tenancy is August 1, 2016. The landlord is entitled to an order of possession effective August 1, 2016 after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

### Conclusion

The landlord's application has been allowed and he has been granted an order of possession effective August 1, 2016.

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 21, 2016

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Residential Tenancy Branch