



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a 1 Month Notice to End Tenancy For Cause, pursuant to section 47
- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. The applicant tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

### Issues

Is the landlord entitled to an order of possession?

### Background and Evidence

The tenancy began on July 15, 2015 with a monthly rent of \$1300.00 payable on the 1<sup>st</sup> day of each month.

The landlord testified that on September 7, 2016 a copy of the 1 Month Notice to End Tenancy for Cause was sent to both tenants on the tenancy agreement by registered mail. The landlord had misplaced the registered mail tracking numbers and could not provide them in the hearing.

### Analysis

I am satisfied that the tenants were deemed served with the 1 Month Notice to End Tenancy for Cause on September 12, 2016, five days after its mailing, pursuant to sections 88 & 90 of the Act. Although the landlord was not able to provide the registered mail tracking numbers, the fact that the tenant filed an application to dispute the 1 Month Notice is evidence that the Notice was served.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, November 1, 2016. The tenant's application to dispute the Notice was not filed until September 29, 2016 which is outside the ten day period.

Further, although the tenant filed an application to dispute the Notice, the tenant did not participate in the Hearing. In the absence of the applicant tenant, I dismiss this Application for Dispute Resolution without leave to reapply.

I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of 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: November 22, 2016

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Residential Tenancy Branch

