



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ET

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to end the tenancy early and obtain an order of possession.

The landlord attended the hearing. As the respondents did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on November 25, 2016, Canada post tracking numbers were provided as evidence of service. The landlord stated that the packages were successfully delivered on November 28, 2016.

The landlord testified that they spoke to the tenant SB and they indicated that they had received the packages. The landlord stated that the tenant told them that because they had someone else sign for the packages that they are going to dispute it was received. The landlord stated that the tenant told them it would take months to get them out.

I have reviewed the Canada post tracking history it shows the packages were successfully delivered to the respondents on November 28, 2016. In order for the packages to be released from Canada post, the respondents must have given authorization to Canada post to allow the signee to accept the package on the recipients' behalf. I find the tenants were served on November 28, 2016.

Further, I accept the evidence of the landlord that the tenant acknowledged that they received the package. **The tenants are cautioned** that if they attempt to file for review of this decision and order on the basis that they did not receive the package. The tenant could be found to be committing fraud.

The landlord testified that although they listed AS as a respondent in their application and served AS. AS was only the roommate of the tenant SB, as they are not listed on

the tenancy agreement. Since AS is not a tenant under the tenancy agreement, I find AS is an occupant and has no legal rights or obligations under the Act. Therefore, AS was removed as a respondent from the style of cause.

### Issue to be Decided

Should the landlord be entitled to an order of possession?

### Background and Evidence

The landlord testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause(the "Notice") issued on September 29, 2016, with an effective vacancy date of November 1, 2016. The landlord stated that the tenant signed the proof of service. Filed in evidence is a copy of the Notice and a copy of the proof of service signed by the tenant.

The landlord testified that the tenant filed an Application for Dispute Resolution to dispute the Notice; however, they abandoned their application. The landlord stated the tenant was served with evidence relating to their application and now that they have the evidence the tenant has become aggressive. The landlord stated that there is serious issues of violence and illegal activity.

The landlord testified that they seek an order of possession.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I have reviewed the tenant's application for dispute resolution filed on October 11, 2016. The tenant was seeking more time to dispute a notice to end tenancy, and to dispute a 1 Month Notice to End Tenancy, issued on September 29, 2016. I have noted the file number of the covering page of my decision. The tenant did not proceed with their application.

As the tenant's application was abandoned, I find the Notice issued on September 29, 2016, valid and is in full force and effect. I find the tenancy legally ended on November 1, 2016, as stated in the Notice. Although the landlord was seeking to end the tenancy early, I find there is no requirements to hear an emergency application as the landlord is entitled to an order of possession based on the undisputed Notice.

Although the landlord has accepted rent for November and December 2016, I find it was for use and occupancy only.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

### Conclusion

The tenant abandoned their application to dispute the Notice. The landlord is granted an order of possession.

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: December 20, 2016

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Residential Tenancy Branch