



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

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

- An Order of Possession for Cause, pursuant to section 47 of the *Act*; and
- Recovery of the filing fee from the tenant pursuant to section 72 of the *Act*;

While the landlord, represented by housing manager, KF, attended the hearing by way of a conference call, the tenant did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") was posted on the rental unit door on October 12, 2016. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was deemed served to the tenant on October 15, 2016.

The landlord testified that the tenant was served with the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") and evidentiary package by Registered Mail on January 16, 2017. The Canada Post tracking number was provided to the hearing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's dispute resolution hearing package and evidentiary package on January 21, 2017.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for Cause?  
Is the landlord entitled to a return of the filing fee?

### Background and Evidence

The landlord gave evidence that the tenancy in question began on June 1, 2013. This was a month to month tenancy, and rent was set at \$375.00 per month. A security deposit of \$360.50 was collected at the outset of the tenancy and continues to be held by the landlord.

The landlord has applied to end the tenancy for cause. The landlord testified that the tenant has faced repeated warnings for his hoarding and bed bug issues. In May and September 2016, the tenant was given two formal written warnings to comply with scheduled pest control treatment. Between September and December 2016, the landlord attempted to enter the suite to perform pest control work, but could not enter the suite because of large amounts of debris present.

Photographic evidence was submitted to the hearing, documenting piles of clutter present in the rental unit.

### Analysis

Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for Cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. I find that the tenant has failed to file his application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, I find that the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the effective date of the 1 Month Notice, November 30, 2016.

**As the tenant has paid rent for February 2017, the landlord will be granted an Order of Possession for 1:00 P.M. on February 28, 2017.**

**As the landlord was successful in this application, the landlord may, pursuant to section 72 of the *Act*, recover the \$100.00 filing fee from the tenant.** Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

### Conclusion

I am granting the landlord an Order of Possession to be effective at 1:00 P.M. on February 28, 2017. The landlord is provided with formal Orders in the above terms. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a Monetary Order in the landlord's favour in the amount of \$100.00 to recover the filing fee for this application. The landlord is provided with these Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: February 14, 2017

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Residential Tenancy Branch