



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JAMESON E. 18TH & ST. GEORGES LP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPL

### Introduction

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

- an order of possession for landlord's use of property pursuant to section 55.

The landlord's agent (the landlord) attended the hearing via conference call and provided affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on February 21, 2017. The landlord submitted in support of this claim a copy of a printout of an online search of the Canada Post website confirming service. The landlord also confirmed in her direct testimony that the package was sent to the tenant's mailing address. I accept the undisputed affirmed evidence of the landlord and find that the tenant has been properly served as per section 88 and 89 of the Act by Canada Post Registered Mail on February 21, 2017. I note that the evidence shows that Canada Post attended and left notice(s) that there was an item for pick for the tenant and that subsequently the package was returned as "unclaimed". Although the tenant did not "claim" the package, I find that the tenant has been sufficiently served as per section 90 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for landlord's use of property?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord stated that this was a month-to-month tenancy.

The landlord provided affirmed testimony that the tenant was served with the 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) dated January 16, 2017 by Canada Post Registered Mail on January 16, 2017. The landlord has submitted in support of this claim the proof of service document with a copy of the Canada Post Customer Receipt tracking label. The landlord stated that the 2 Month Notice was returned as "unclaimed" by Canada Post after leaving notice(s) for the tenant to pick up the package.

The 2 Month Notice dated January 16, 2017 sets out an effective end of tenancy date of March 31, 2017 and provides one reason for the notice as:

*The landlord has all the necessary permits and approvals required by law to demolish the rental unit, or renovate or repair the unit in a manner that requires the rental unit to be vacant.*

The landlord in support of this claim has provided a letter dated January 6, 2017 from the local municipality confirming that the rental property has been permitted to be demolished.

### Analysis

Section 49 (6) (a) of the Act sets out that a landlord may end a tenancy in respect of a rental unit if the landlord has all the necessary permits and approvals required by law, and intends in good faith to demolish the rental unit.

According to section 49(8) of the Act, a tenant may dispute a notice to end tenancy for landlord's use by making an application for dispute resolution within fifteen days after the date the tenant receives the notice. Subsection 49(9) states:

If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served with the 2 Month Notice dated January 16, 2017 via Canada Post Registered Mail as shown by the submitted copies of the Canada Post Registered Mail Customer Receipt Tracking label and the printout of the online tracking search. Although the tenant failed to “claim” the package, the tenant is deemed sufficiently served as per section 90 of the Act.

I also accept the undisputed affirmed evidence of the landlord on the contents of the 2 Month Notice dated January 16, 2017 and the accompanying letter from the local municipality. I find that the 2 Month Notice dated January 16, 2017 to be valid. The tenant having been deemed served has not filed an application to dispute the 2 Month Notice within the allowed timeframe and is conclusively presumed to have accepted that the tenancy is at an end on the effective end of tenancy date of March 31, 2017. The landlord has established a claim for an order of possession for the effective date of the 2 Month Notice on March 31, 2017.

### Conclusion

The landlord is granted an order of possession for March 31, 2017.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order 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: March 17, 2017

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Residential Tenancy Branch