



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on April 25, 2017 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause, dated April 7, 2017 (the "One Month Notice"); and
- an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf. The Tenant S.P. attended the hearing on behalf of the Tenants. All parties giving testimony provided a solemn affirmation.

The Landlord testified the Application package, including the Notice of a Dispute Resolution Hearing, was served on the Tenants D.S. and S.P., in person, on April 25, 2017. The Landlord submitted hand-written notes confirming service in this manner was witnessed. The Tenant S.P. attended the hearing and did not dispute having received the Landlord's Application package on that date. I find the Tenants D.S. and S.P. received the Landlord's Application package on April 25, 2017. The Tenants did not submit any documentary evidence in response to the Landlord's Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

The Landlord confirmed he served the Tenants with the One Month Notice on April 7, 2017, in person. In support of service, the Landlord submitted with his documentary evidence a Proof of Service form confirming service was witnessed by H.S.S. The Tenant S.P. did not dispute having received the One Month Notice on that date. The One Month Notice was issued on the bases that the Tenants are repeatedly late paying rent; have allowed an unreasonable number of occupants in the rental unit; and have not done required repairs of damage to the rental unit/site.

The Tenant S.P. made submissions with respect to the tenancy and an alleged discussion with the Landlord. However, the Landlord confirmed he required an order of possession. In addition to the reasons noted on the Application, he noted that the Tenants have not paid rent for the months of April and May 2017.

### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy.

In this case, the Landlord issued the One Month Notice on the bases indicated above. Based on the Landlord's testimony and the Proof of Service document submitted with the Landlord's documentary evidence, I find the Tenants received the One Month Notice on April 7, 2016. The Tenants had until April 17, 2017, to dispute the notice, although none did so. Accordingly, pursuant to section 47(5) of the *Act*, I find the Tenants are conclusively presumed to have accepted the end of the tenancy.

The Landlord is entitled to an order of possession, which will be effective on May 31, 2017, at 1:00 p.m., which is the corrected effective date of the One Month Notice, pursuant to section 53 of the *Act*.

The Landlord also sought to recover the filing fee paid to bring this Application. I grant the Landlord a monetary order in the amount of \$100.00.

### Conclusion

I grant the Landlord an order of possession, which will be effective on May 31, 2017, at 1:00 p.m. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

I grant the Landlord a monetary order in the amount of \$100.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: May 29, 2017

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Residential Tenancy Branch