



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOCIATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC FF O

### Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) by the landlord to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated May 29, 2017 (the “1 Month Notice”), to recover the cost of the filing fee and other unspecified relief.

An agent for the landlord (the “agent”) appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”), the Application for Dispute Resolution (the “Application”) and documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were personally served on the tenant at the rental building on July 31, 2017 by agent T.S. and was witnessed by third-party C.R. Based on the undisputed testimony before me, and without any other evidence to prove to the contrary, I accept that the tenant was sufficiently served on July 31, 2017 with the Notice of Hearing, Application and documentary evidence.

### Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

The landlord stated that a fixed term tenancy began in June or July of 2016 and that after three months the tenancy reverted to a month to month tenancy. Monthly rent in the amount of \$375.00 is due on the first day of each month.

The landlord submitted a copy of the 1 Month Notice in evidence. The agent testified that the 1 Month Notice was posted on the tenant's door on May 29, 2017 and was dated May 29, 2017. The effective vacancy date listed on the 1 Month Notice is listed as June 30, 2017. The landlord listed a total of four causes on the 1 Month Notice. According to the agent, the tenant did not dispute the 1 Month Notice and continues to occupy the rental unit. The landlord is seeking a two-day order of possession and the recovery of the cost of the filing fee.

### Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Order of Possession** – Firstly, as the tenant was served and did not attend the hearing, I find that this Application is undisputed by the tenant. Secondly, section 90 of the *Act* states that document served by posting to the door are deemed served three days after they are posted. Therefore, I find the tenant was deemed served with the 1 Month Notice on June 1, 2017, which is three days after it was posted to the rental unit door on May 29, 2017. Section 47 of the *Act* states that if the tenant does not dispute the 1 Month Notice within ten days of the date of service, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective vacancy date listed on the 10 Day Notice which in the matter before me was June 30, 2017. As the 1 Month Notice was deemed served on June 1, 2017 and the tenant did not dispute the 1 Month Notice, I find the tenancy ended on June 30, 2017, which is the effective vacancy date listed on the 1 Month Notice. Accordingly, I grant the landlord an order of possession effective **two (2) days** after service on the tenants as the agent confirmed that money for October 2017 has not been accepted by the landlord for use and occupancy.

As the landlord has succeeded with their application, I grant the landlord the recovery of the **\$100.00** filing fee. Pursuant to sections 67 and 72 of the *Act* I grant the landlord a monetary order in the amount of **\$100.00** for the recovery of the cost of the filing fee.

Conclusion

The landlord's application is successful.

I find that the landlord has proven their claim and is granted an order of possession effective two (2) days after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order in the amount of \$100.00 for the recovery of the cost of the filing fee. Should the landlord require enforcement of the monetary order, it must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 5, 2017

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Residential Tenancy Branch