



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC FFL

### Introduction

This hearing dealt with a landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") to obtain an order of possession based on an undisputed 1 Month Notice to End Tenancy for Cause dated August 26, 2018 ("1 Month Notice") and to recover the cost of the filing fee.

An agent for the landlord ("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 hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on October 19, 2018 and was addressed to the tenant who continues to occupy the rental unit. The registered mail tracking number provided orally by the agent has been included on the cover page of this decision for ease of reference and is identified as "1". According to the online registered mail tracking website information the registered mail package was unclaimed and eventually returned to the sender. Based on the above, I find the tenant was deemed served with the Notice of Hearing, application and documentary evidence on October 24, 2018. Pursuant to section 90 of the *Act*, documents served by registered mail are deemed served five days after they are mailed. As the tenant did not attend the hearing, I find that the landlord's application is undisputed and unopposed by the tenant.

### Preliminary and Procedural Matter

The agent confirmed the email address of the landlord at the outset of the hearing. The landlord was advised that the landlord would receive the decision by email and that the tenant would receive the decision by regular mail as an email address for the tenant was not listed on the application. In addition, the landlord was advised that any applicable orders would be sent to the appropriate party.

### Issues to be Decided

- Is the landlord entitled to an order of possession based on an undisputed 1 Month Notice?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on July 1, 2012 and monthly rent of \$800.00 is due on the first day of each month. The tenant did not pay a security deposit or pet damage deposit.

The agent confirmed service of the 1 Month Notice dated August 26, 2018 by registered mail to the tenant at the rental unit address on August 27, 2018. The registered mail tracking number has been included on the cover page of this decision for ease of reference and has been identified as "2". According to the online registered mail tracking website information the registered mail package was unclaimed and returned to the sender. Pursuant to section 90 of the *Act*, I find the tenant was deemed served with the 1 Month Notice as of September 1, 2018.

The 1 Month Notice included an effective vacancy date of September 1, 2018 which automatically corrects under section 53 of the *Act* to September 30, 2018. The 1 Month Notice lists two causes on the 1 Month Notice. The agent testified that the tenant did not dispute the 1 Month Notice and continues to occupy the rental unit.

The agent stated that he is seeking an order of possession with an effective vacancy date of December 1, 2018 at 1:00 p.m. versus a two-day order of possession.

### Analysis

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

**Order of possession** - I find that the tenant did not dispute the 1 Month Notice within 10 days after being deemed served as having received the 1 Month Notice on September 1, 2018 as indicated above. The effective vacancy date of the 1 Month Notice is listed as September 1, 2018 which corrects to September 30, 2018. Section 47 of the *Act* indicates that when tenant does not dispute a 1 Month Notice, they are conclusively presumed to have accepted that the tenancy ends on the effective vacancy date. Therefore, I find the tenancy ended on September 30, 2018. Therefore, I grant the landlord an order of possession pursuant to section 55 of the *Act* effective **December 1, 2018 at 1:00 p.m.** The agent testified that the tenant has not paid for use and occupancy of the rental unit.

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

### Conclusion

The landlord's application is successful.

The tenancy ended on September 30, 2018.

The landlord has been granted an order of possession effective December 1, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord is granted a monetary order in the amount of \$100.00 owing by the tenant to the landlord for the filing fee pursuant to sections 67 and 72 of the *Act*. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The decision, order of possession and monetary order will be emailed to the landlord and the decision will be sent by regular mail to the tenant.

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: November 26, 2018

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Residential Tenancy Branch