



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BETA TAU OF DELTA KAPPA EPSILON ALUMNIJONAH  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an order of possession, based on a One Month Notice to End Tenancy for Cause, issued on November 16, 2018.

### Preliminary and procedural matters

At the outset of the hearing JS attending the hearing. JS is not the respondent listed in the application.

JS stated that they are a tenant. However, I have reviewed the tenancy agreement signed by the landlord and the tenant on August 20, 2017. The tenancy agreement is a fixed term tenancy that commencing September 1, 2018 and was to expire on August 31, 2018. Rent in the amount of \$650.00 is payable on the first of each month.

JS is not a tenant listed under that agreement, nor was JS added to the agreement. Filed in evidence is a copy of the tenancy agreement.

Further, I have reviewed the sublet agreement. The sublet agreement shows that JS entered in to agreement on April 28, 2018 and was to expire on May 1, 2018.

However, I note this agreement is not signed by the tenant or the landlord and list the rental unit in London, Ontario. This leads me to question the credibility of this document. Filed in evidence is a copy of the sublease agreement.

JS stated that they were at a previous hearing on October 22, 2018, which determined they were a tenant. I have read that decision; the landlord in this matter was not present and the merits were not heard on the issue of a tenancy. JS provided no

documentary evidence at that hearing that they have a signed written agreement with the landlord. I have noted the file number of this decision on the covering page of my decision.

**Based on the above, I find JS is not a tenant. I find JS is an occupant and has no legal rights or obligation under the Act.**

JS does not have the written consent of the tenant to act on their behalf as required by the Residential Tenancy Branch Rules of Procedures.

JS was asked to leave the hearing as they have no legal rights and are not authorized to represent the tenant. JS exited the hearing.

Counsel for the landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

Counsel for the landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on January 17, 2019, a Canada post tracking number was provided as evidence of service. Counsel submits the package was returned unclaimed. I have noted the Canada post tracking number on the covering page of this decision.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

Furthermore, I am satisfied the tenant is aware of today's hearing as the file audit notes show that the tenant contacted the Residential Tenancy Branch on February 25, 2019, and were given the information to call into the hearing, which they did not do so.

#### Issue to be Decided

Is the landlord entitled to an order of possession?

#### Background and Evidence

Based on the testimony of the landlord's legal counsel, I find that the tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice"), issued on November 19, 2018, sent by registered mail on November 23, 2018 and was successfully delivered to the tenant on November 30, 2018. Filed in evidence is a copy of the Notice. Filed in

evidence is a copy of the Canada post tracking history. I have noted the Canada post tracking number on the covering page of my decision

The Notice explains the tenant had ten 10 days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenant is presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice.

Counsel submits the tenant did not dispute the notice and they have not paid any rent since September 2018. Counsel submits that the landlord requests and order of possession.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant did not apply to dispute the Notice and therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I find the tenancy legally ended on December 31, 2018.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant failed to dispute the Notice. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy. The landlord is granted an order of possession.

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 26, 2019

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Residential Tenancy Branch