



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 458349 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause, pursuant to sections 47 and 55.

The landlord's manager (the "landlord") and the tenants attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord testified that he served the tenants with the landlord's application for dispute resolution by putting it in the tenants' mailbox on June 26, 2019. The tenants testified that they received the landlord's application for dispute resolution on June 26 or June 27, 2019. I find that the tenants were served with the landlord's application for dispute resolution in accordance with section 89 of the *Act*.

### Issue to be Decided

1. Is the landlord entitled to an Order of Possession for cause, pursuant to sections 47 and 55 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced

here. The relevant and important aspects of the tenants' and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on September 1, 2018 and is currently ongoing. Monthly rent in the amount of \$1,750.00 is payable on the first day of each month.

The landlord testified that on March 28, 2019 he served the tenants with a One Month Notice to End Tenancy for Cause with an effective date of April 30, 2019 (the "One Month Notice") by leaving a copy in the tenants' mailbox. The tenants testified that they did not receive the One Month Notice. The landlord did not enter into evidence a proof of service document for the One Month Notice.

The landlord testified that prior to the effective date on the One Month Notice he attended at the subject rental property and enquired as to when the tenants were going to move out and tenant B.V. informed him that she did not receive the One Month Notice. At this point in time the landlord did not serve the tenant with a new One Month Notice. The landlord testified that he waited to file his application for dispute resolution until June 23, 2019 because tenant B.V. informed him that she had not received the One Month Notice and he wanted to give the tenants enough time to find new accommodation.

The tenants testified that the first time they received a copy of the One Month Notice was in the landlord's application for dispute resolution.

### Analysis

Section 88(f) of the *Act* states that all documents, other than those referred to in section 89 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person may be served by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord.

Residential Tenancy Policy Guideline 12 states that failure to prove service may result in the matter being dismissed, with or without leave to reapply.

Based on the testimony of both parties I am not satisfied that the tenants received the One Month Notice in accordance with section 88 of the *Act*. I therefore find that the One Month Notice is of no force or effect. The landlord's application is dismissed.

### Conclusion

The One Month Notice is of no force or effect.

The landlord's application is dismissed.

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: August 15, 2019

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Residential Tenancy Branch