



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1162538 B.C. LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPC

### Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution in which they sought an Order of Possession based on an undisputed 1 Month Notice to End Tenancy for Cause issued on September 9, 2019.

The hearing of the Landlord's Application was scheduled for 11:00 a.m. on this date. Only the Landlord's legal counsel, S.S., called into the hearing. He was provided the opportunity to present the Landlord's evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not call into this hearing, although I left the teleconference hearing connection open until 11:11 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord's legal counsel and I were the only ones who had called into this teleconference.

As the Tenant did not call in, I considered service of the Landlord's hearing package. The Landlord's legal counsel stated the Tenant was served the Notice of Hearing and the Application on November 23, 2019 by registered mail. A copy of the registered mail tracking number is provided on the unpublished cover page of this my Decision.

*Residential Tenancy Policy Guideline 12—Service Provisions* provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where

the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of November 28, 2019 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's legal counsel's submissions and or arguments are reproduced here; further, only the evidence specifically reference by the Landlord legal counsel and relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

The Landlord's legal counsel confirmed his email addresses during the hearing as well as his understanding that this Decision and resulting Order would be emailed to them.

### Issue to be Decided

1. Is the Landlord entitled to an Order of Possession?

### Background and Evidence

Counsel for the Landlord confirmed that the current Landlord took over ownership of the rental property on June 30, 2019, at which time the tenancy was ongoing. Counsel advised that the Tenant continued to pay \$550.00 per month once the Landlord assumed the tenancy.

The Landlord issued the Notice on September 9, 2019. The Notice has an effective vacancy date of October 30, 2019. Counsel advised that the Tenant has yet to vacate the rental unit.

Counsel stated that the Notice was personally served on the Tenant on September 9, 2019. He also confirmed that the letter from the City which was referenced in the "Details of Dispute" section on the Notice was also provided to the Tenant at the time of service of the Notice.

The Notice informs the Tenant that they had ten days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Landlord testified that the Tenant did not apply for dispute resolution.

The Landlord applied for dispute resolution on November 15, 2019.

### Analysis

Based on the Landlord's undisputed documentary evidence and submissions and on a balance of probabilities, I find the following.

The Tenant did not apply to dispute the Notice and is conclusively presumed, pursuant to section 47(5) to accept the end of the tenancy and must vacate the rental unit. I have reviewed the Notice and confirm it complies with section 52 of the *Act*. As such, the Landlord is entitled to an Order of Possession pursuant to section 55 of the *Act* which will be effective at **1:00 p.m.**, two days after service. This Order must be served on the Tenant and may be filed in the Supreme Court and enforced as an Order of that court.

### Conclusion

The Landlord is entitled to an Order of Possession based on the undisputed Notice.

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: January 13, 2020

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Residential Tenancy Branch