



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes    OPC, FFL

### Introduction

This matter was convened to hear an Application for Dispute Resolution made by the Landlord on August 3, 2022. The Landlord seeks an order of possession based on a One Month Notice to End Tenancy for Cause dated June 24, 2022 (the One Month Notice) and an order granting recovery of the filing fee, pursuant to the Residential Tenancy Act (the Act).

The Landlord was represented at the hearing by MD, an agent. The Tenant attended the hearing on his own behalf. Both MD and the Tenant provided affirmed testimony.

On behalf of the Landlord, MD testified the Tenant was served with the Notice of Dispute Resolution Proceeding package by registered mail on August 20, 2022. Copies of Canada Post registered mail receipts confirming the date and time of purchase and including the tracking number were submitted in support. The Tenant testified that he received an envelope but did not sign for it. Pursuant to sections 89 and 90 of the Act, documents served in this manner are deemed to have been received five days later. I find these documents are deemed to have been received by the Tenant on August 25, 2022, five days after they were mailed.

The Tenant did not submit documentary evidence in response to the Landlord's application.

The parties were given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

The parties agreed the written tenancy agreement was entered into on May 20, 2021, although the Tenant testified he has lived in the rental unit for about eight years. Rent of \$1,900.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$900.00, which the Landlord holds. A copy of the signed tenancy agreement was submitted into evidence.

On behalf of the Landlord, MD testified that the One Month Notice was served on the Tenant by registered mail on June 24, 2022. Canada Post registered mail receipts showing the date and time of service and including the tracking number were submitted in support. The One Month Notice submitted into evidence is signed and dated, gives the address of the rental unit, states the effective date, states the grounds for ending the tenancy, and is in the approved form.

The Tenant acknowledged the One Month Notice was not picked up. He testified that he has lived at the rental unit for eight years. The Tenant testified that he was told that as long as rent paid on time, they “would be the best of friends”. The Tenant testified that rent has always paid on time, and MD acknowledged rent is up to date. The Tenant testified the Landlord now says he has to make repairs to the rental unit, even though the previous landlord acknowledged the rental unit is in “as is” condition. The Tenant testified he previously had a series of one-year leases. The Tenant suggested the Landlord is motivated to end the tenancy to obtain higher rents for the rental unit.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 47 of the Act permits a landlord to take steps to end a tenancy by issuing a notice to end tenancy for cause in the approved form. The notice must comply with the form and content requirements of the Act. A tenant has 10 days after receipt of a notice to end tenancy for cause to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause within 10 days after receipt results in the conclusive presumption that the tenant has accepted the tenancy ends on the effective date of the notice and must vacate the rental unit.

In this case, I find that the One Month Notice was served on the Tenant by registered mail on June 24, 2022. Although the Tenant acknowledged he did not pick it up, sections 88 and 90 of the Act confirm that documents served in this manner are deemed to be received five days later. It is not an excuse to avoid service by failing to collect registered mail. Therefore, I find the One Month Notice is deemed to have been received by the Tenant on June 29, 2022. I also find the One Month Notice complies with the form and content requirements of section 52 of the Act.

Pursuant to section 47(4) of the Act, the Tenant had until July 9, 2022 to dispute the One Month Notice by filing an application for dispute resolution. I find the Tenant did not dispute the One Month Notice. Indeed, the Tenant testified he never picked up the registered mail package containing the One Month Notice. Therefore, pursuant to section 47(5) of the Act, I find the Tenant is conclusively presumed to have accepted the tenancy has ended and must vacate the rental unit.

I find the Landlord is entitled to an order of possession, which will be effective on September 30, 2022, at 1:00 p.m.

Having been successful, I find the Landlord is entitled to recover the filing fee. I order that the Landlord may retain \$100.00 from the security deposit held in satisfaction of the filing fee.

Conclusion

The Landlord is granted an order of possession which will be effective on September 30, 2022, at 1:00 p.m. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is entitled to retain \$100.00 from the security deposit held in recovery of the filing fee.

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: September 23, 2022

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Residential Tenancy Branch