



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding M'AKOLA HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

OPQ, FFL

### Introduction

The hearing was convened in response to an Application for Dispute Resolution filed by the Landlord, in which the Landlord applied for an Order of Possession and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on December 20, 2022 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on December 15, 2022 was sent to the Tenant at the rental unit, via registered mail. The Landlord submitted a Canada Post receipt that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing. As the documents were properly served to the Tenant, the evidence was accepted as evidence for these proceedings and the hearing proceed in the absence of the Tenant.

The Agent for the Landlord stated that on December 20, 2022 the Dispute Resolution Package was also posted on the door of the rental unit. She stated that the Canada Post website shows this package was delivered on December 21, 2022.

The Agent for the Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Agent for the Landlord affirmed that she would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Agent for the Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. She affirmed she would not record any portion of these proceedings.

### Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession?

### Background and Evidence

The Landlord stated that:

- this tenancy began in 2013;
- the Tenant is required to pay subsidized rent, which is due by the first day of each month;
- the Tenant did not provide information regarding annual income and household composition when it was requested by the Landlord on several occasions;
- the Tenant no longer qualifies for subsidized housing because he has not provided necessary information regarding income and household composition;
- on September 23, 2022, a Two Month Notice to End Tenancy was sent to the rental unit, via registered mail and was posted on the door of the rental unit'
- the Two Month Notice to End Tenancy declares that the tenancy is ending because the Tenant no longer qualifies for subsidized rent; and
- the Two Month Notice to End Tenancy for Landlord's Use declares that the unit must be vacated by November 30, 2022; and
- the rental unit has not been vacated.

The Landlord submitted Canada Post documentation that shows the registered mail that was sent on September 23, 2022 was delivered on September 29, 2022.

### Analysis

Section 49.1 of the *Residential Tenancy Act (Act)* authorizes a landlord to end a tenancy if the tenancy agreement permits the landlord to end the tenancy of a subsidized rental unit by giving notice to end the tenancy if the tenant or other occupant, as applicable, ceases to qualify for the rental unit.

On the basis of the tenancy agreement and addendum submitted in evidence, I find that the agreement authorizes the Landlord to end the tenancy of the subsidized rental unit if

the Tenant does not provide information about income and household composition “at least annually”.

On the basis of the undisputed testimony that the Tenant did not provide information about his annual income and family composition when it was requested, I find that the Landlord had the right to serve notice that the tenancy was ending pursuant to section 49.1 of the *Act*.

On the basis of the Agent for the Landlord’s testimony and Canada Post documentation submitted in evidence, I find that the Two Month Notice to End Tenancy, dated September 23, 2022, was sent to the Tenant on September 23, 2022. On the basis of the Canada Post documentation, I find it was delivered to the unit on September 29, 2022. In the absence of evidence to the contrary, I therefore find that the Tenant received the Two Month Notice to End Tenancy Use on September 29, 2022. I find that this Two Month Notice to End Tenancy properly informed the Tenant that the tenancy was ending pursuant to section 49.1 of the *Act*.

Section 49.1(5) of the *Act* stipulates that tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of a notice received pursuant to section 49.1 of the *Act* and that the tenants must vacate the rental unit by that date unless the tenant disputes the notice within 15 days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Two Month Notice to End Tenancy, I find that the Tenant accepted that the tenancy was ending on the effective date of the Notice, which was November 30, 2022.

As the rental unit has not been vacated, I grant the Landlord an Order of Possession, pursuant to section 55 of the *Act*.

I find the Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

### Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on February 28, 2023. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim of \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution, and I grant the Landlord a monetary Order for 100.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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 13, 2023

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Residential Tenancy Branch