



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") on August 10, 2010 by posting a copy of it to the rental unit door. Section 90 of the Act deems a document delivered by this method to have been received by the recipient 3 days later. Consequently, based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This month-to-month tenancy started approximately 18 months ago. Rent is \$650.00 per month payable in advance on the 1<sup>st</sup> day of each month. The Landlord said that on July 10, 2010 he served the Tenant with a One Month Notice to End Tenancy for Cause dated July 10, 2010 by posting it to the rental unit door. The Notice alleged that the Tenant was repeatedly late paying rent.

### Analysis

Section 47(4) of the Act states that a Tenant who receives a One Month Notice to End Tenancy for Cause must apply to dispute it within 10 days or they will be deemed under s. 47(5) of the Act to have accepted that the tenancy will end on the effective date of the Notice and they must vacate the rental unit on that date. I find that the Tenant was served with the One Month Notice on July 10, 2010 and that pursuant to s. 90 of the Act she was deemed to receive it 3 days later. Consequently, the Tenant would have had to apply for dispute resolution to cancel the Notice no later than August 23, 2010.

I find that the Tenant did not apply to dispute the One Month Notice. I also find that the effective date on the One Month Notice is incorrect and pursuant to s. 53 of the Act it is



# Dispute Resolution Services

Page: 2

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amended to read August 31, 2010. I further find that the Landlord is entitled pursuant to s. 55(2)(b) of the Act to an Order of Possession to take effect at 1:00 p.m. on August 31, 2010.

I find pursuant to s. 72 of the Act that the Landlord is also entitled to recover the \$50.00 filing fee for this proceeding. A monetary order will be issued to the Landlord for the amount of the filing fee however I order that the Landlord may instead deduct that amount from the Tenant's security deposit (if he has one).

## Conclusion

An Order of Possession to take effect on August 31, 2010 and a Monetary Order in the amount of \$50.00 have been issued to the Landlord and a copy of the Orders must be served on the Tenant. The Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 30, 2010.

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Dispute Resolution Officer