



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes OPC FF

### 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 section 55;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The property manager H.D. testified that on October 21, 2018, a former tenant T.S. personally served the tenant's wife, who resides in the rental unit with the tenant, with a copy of the Application for Dispute Resolution and Notice of Hearing. A witnessed proof of service form was provided in support of service.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

### Issues

Is the landlord entitled to an order of possession pursuant to a One Month Notice to End Tenancy for Cause (the One Month Notice)?

Is the landlord entitled to recover its filing fee?

### Background and Evidence

The tenancy began on February 1, 2018 with a monthly rent of \$500.00 payable on the 1<sup>st</sup> day of each month. The tenant paid a security deposit of \$250.00 at the start of the tenancy which the landlord continues to hold.

The property manager H.D. testified that on September 29, 2018 she served the tenant with the One Month Notice by posting a copy to the door of the rental premises. A witnessed Proof of Service form of the Notice to End Tenancy was provided on file.

### Analysis

I am satisfied that the tenant was deemed served with the One Month Notice on October 2, 2018, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving a notice to end tenancy. Under this section, the tenant may make a dispute application within ten days of receiving the One Month Notice. If, as in the present case, the tenant does not make an application for dispute within ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the “corrected” effective date of the One Month Notice, November 30, 2018.

I find that the One Month Notice complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the security deposit.

### Conclusion

I grant an Order of Possession to the landlord effective November 30, 2018. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme 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: November 26, 2018

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Residential Tenancy Branch