



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPC

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on November 1, 2019. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a One Month Notice to End Tenancy for Cause (the Notice)

The Landlord attended the hearing. However, the Tenant did not attend the hearing. The Landlord provided registered mail tracking information showing she mailed (to the rental unit) the Notice of Hearing and evidence to the Tenant on September 12, 2019. Pursuant to section 88 and 90 of the Act, the Tenant is deemed served with this package 5 days after it was mailed.

The Landlord was given a full opportunity to be heard, to present evidence and to make submissions. 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.

### Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

### Background and Evidence

The Landlord stated that she sent the Notice to the Tenant on August 22, 2019, by registered mail. Tracking information was provided. A copy of the Notice was provided into evidence.

The Notice indicates the reason for ending the tenancy is because of the Tenant illegally subletting the unit. The Landlord stated that she wishes to get back possession of the rental unit, as there are strata fines pending.

### Analysis

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

After reviewing the Notice, I am satisfied that it complies with section 52 of the *Act* [form and content of notice to end tenancy]. Section 47 of the *Act* permits a landlord to end a tenancy for cause. A tenant who receives a notice to end tenancy for cause has 10 days after receipt to dispute it by making an application for dispute resolution. Failure to dispute the notice to end tenancy for cause in this period results in the conclusive presumption that the tenant has accepted the end of the tenancy, under section 47(5) of the *Act*.

In this case, I am satisfied that the Landlord served the Tenant with the Notice, by registered mail. Pursuant to section 88 and 90 of the *Act*, I deem the Tenant was served with the Notice on August 27, 2019, which is 5 days after it was mailed to the rental unit.

The Tenant had 10 days, until September 6, 2019, to dispute the notice, but did not do so. Accordingly, pursuant to section 47(5) of the *Act*, I find the tenant is conclusively presumed to have accepted the end of the tenancy on the effective date of the Notice.

Since the effective date of the Notice has passed I find the Landlord is entitled to an order of possession, which will be effective **two days after service** on the tenant.

#### Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: November 01, 2019

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Residential Tenancy Branch