



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

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

## **DECISION**

Dispute Codes      OPQ, FFL

### Introduction

This hearing was scheduled to convene at 9:30 a.m. on October 11, 2024 concerning an application made by the landlord seeking an order of possession because the tenant no longer qualifies for subsidized housing, and to recover the filing fee from the tenant for the cost of the application.

Two agents of the landlord attended the hearing, one of whom gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Notice of Dispute Resolution Proceeding and all evidence by registered mail on August 29, 2024 and has provided a Proof of Service document and a Canada Post cash register receipt and Registered Domestic Customer Receipt. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

- Is the landlord entitled to an order of possession because the tenant no longer qualifies for subsidized housing?
- Should the landlord recover the filing fee from the tenant?

### Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on February 28, 2014 and the tenant still resides in the rental unit. Rent is subsidized and the tenant's share is \$853.00 per month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of

\$485.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided for this hearing.

The landlord's agent further testified that the tenant was served with a Two Month Notice to End Tenancy For Landlord's Use of Property or Because the Tenant Does Not Qualify for Subsidized Rental Unit (the Notice) by registered mail on May 24, 2024, which was delivered to the tenant on June 8, 2024. A copy of the Notice has been provided for this hearing and it is dated May 24, 2024 and contains an effective date of vacancy of July 31, 2024. The reason for issuing it states: The tenant no longer qualifies for the subsidized rental unit.

On March 1, 2024 the landlord sent out a reminder to the tenant that an annual rent review was required in May, as per Section 7 of the tenancy agreement and as per BC Housing requirements. Another reminder was provided to the tenant on April 15, 2024 with a warning that a Two Month Notice to End Tenancy would be issued. The landlord's agent tried to call the tenant but received no response, so the Notice was issued.

The tenant has not served the landlord with an Application for Dispute Resolution or Notice of Dispute Resolution Proceeding disputing the Notice, and the landlord seeks an order of possession and recovery of the \$100.00 filing fee.

### Analysis

The *Residential Tenancy Act* specifies that where a tenant is served with a notice to end a tenancy given by a landlord, the tenant has 15 days to dispute it. If the tenant fails to do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date contained in the Notice.

In this case, I have reviewed the Notice, and I find that it is in the approved form and contains information required by the *Act*.

I also accept the undisputed testimony of the landlord's agent that the tenant was served with the Notice on May 24, 2024 by registered mail, which is deemed to have been received 5 days later, or May 29, 2024. I also accept the testimony of the landlord's agent that the tenant has not served the landlord with an Application for Dispute Resolution or Notice of Dispute Resolution Proceeding, and I have no such application before me.

Since the tenant has not disputed the Notice, and the time for disputing the Notice expired on June 13, 2024, I grant an order of possession in favour of the landlord.

Since the effective date of vacancy has passed, I grant the order of possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recover the \$100.00 filing fee from the tenant. I grant a monetary order in favour of the landlord in that amount. The tenant must be served with the order, and I order that the landlord be permitted to keep that amount from the security deposit held in trust. Alternatively, the landlord may file the order in the Provincial Court of British Columbia, Small Claims division and enforce it as an order of that Court.

### Conclusion

For the reasons set out above, I hereby grant an order of possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the landlord be permitted to keep that amount from the security deposit held in trust, or may otherwise recover it.

This order is final and binding and may be enforced.

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: October 11, 2024

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Residential Tenancy Branch