



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      OPL

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

### Issues(s) to be Decided

The issue to be decided is whether the landlord is entitled to an Order of Possession based on a 2 Month Notice to End Tenancy for Landlord's Use, pursuant to sections 55 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence a copy of a 2 Month Notice to End Tenancy for Landlord's Use dated October 9, 2009 with an effective vacancy date of December 31, 2009, citing the landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant. The tenant has signed the notice, acknowledging receipt.

The landlord has also submitted a copy of a demolition permit granted by the local authorities to demolish the single family dwelling and outbuildings located at the dispute address, dated September 29, 2009.

The landlord testified the tenant was served with the 2 Month Notice to End Tenancy on October 9, 2009 personally and the tenant acknowledged receipt by signing the Notice. The tenant confirmed receipt as stated in the hearing.

The tenant testified the landlord had agreed to an extension to the end of January 2010 and that she had paid rent for that month. The landlord stated that they had discussed with the tenant that rent would be for use and occupancy only, the tenant disputed this aspect of the discussion and also stated her rent receipt stated "rent" not "for use and occupancy only".

Both parties agreed that the understood that the end of the tenancy was adjusted to the end of February 2010 and that there was no intention on behalf of the landlord to reinstate the tenancy.

The tenant stated she was not sure if she could be out by the end of February 2010 and may need to have some additional time in March 2010. The landlord stated he required the vacancy no later than March 1, 2010 as complete demolition of the rental unit is required by the end of March, 2010.

### Analysis

Section 55 of the Act allows a landlord to request an order of possession of a rental unit if a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

I have reviewed all the evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on October 9, 2009 and the effective date of the notice is December 31, 2009. I accept that both parties agreed to extend the effective date of the end of the tenancy to March 1, 2010.

I accept the evidence before me that the tenant failed to file an Application for Dispute Resolution to dispute the notice within the 15 days granted under section 49 (8) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 49(9) of the Act to have accepted that the tenancy will end on the effective date of the Notice.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **on March 1, 2010**. This order must be served on the tenant and may be filed in the Supreme 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 12, 2010.

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Dispute Resolution Officer