



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

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

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

The tenancy began on March 1, 2010 for a one year term ending on February 28, 2011. The Landlord’s agent states that in the middle of December 2010, the Tenant notified the agent that he would be travelling to Vietnam and would return at the end of February 2011. The agent states that a few days later, the Landlord contacted the agent to inform her that he wanted to end the lease at the end of February and not renew it on a monthly basis as he wished to occupy the unit himself. The agent was not able to contact the Tenant until February 20, 2011 at which time the agent informed the Tenant that the Landlord wished to occupy the unit by the end of April 2011. On February 27,

2011, the agent served the Tenant with a 2 month notice to end tenancy with a move-out date of April 30, 2011. The agent states that she told the Tenant that since he was not going to be back from Vietnam until March that they would allow him more time to find another rental unit and would allow him to stay until the end of May 2011. The agent further states that no rent was collected from the Tenant for the month of May 2011.

### Analysis

Section 49 of the Act provides that where a tenant receives a notice to end tenancy for the landlord's use of property and does not make an application within 15 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

Based on the Landlord's testimony I find that the Tenant was served with a notice to end tenancy for landlord's use of property and I find the notice to be valid. The Tenant has not applied for Dispute Resolution to dispute the notice. The Tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Given the above facts, I find that the Landlord is entitled to an **Order of Possession**.

### Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the Order may be filed in the Supreme Court of British Columbia 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: May 30, 2011.

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Residential Tenancy Branch