



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPL; FF

### **Introduction**

This is the Landlord's application for an Order of Possession and to recover the cost of the filing fee from the Tenant.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that he handed the Notice of Hearing documents to the Tenant, with a witness present, at 2:30 p.m., June 9, 2011, at the rental unit.

Based on the affirmed testimony of the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents on June 9, 2011. Despite being served with the Notice of Hearing documents, the Tenant did not sign into the teleconference and the Hearing proceeded in his absence.

### **Issues to be Decided**

- Is the Landlord entitled to an Order of Possession?

### **Background and Evidence**

The Landlord gave the following testimony and evidence:

On March 25, 2011, the Landlord issued a 2 Month Notice to End Tenancy for Landlord's Use (the "Notice"), effective May 31, 2011. A copy of the Notice was provided in evidence. The Landlord stated that his father and mother will be moving into the rental unit.

On March 25, 2011, the Landlord personally served the Tenant with the Notice, with a witness present. The Tenant remains in the rental unit and the Landlord seeks an Order of Possession.

### **Analysis**

I accept that the Landlord's affirmed testimony that he served the Tenant with the Notice on March 25, 2011. The Tenant did not file an application disputing the Notice.

Therefore, pursuant to the provisions of Section 49(9) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on May 31, 2011. The Tenant is overholding and therefore I find that the Landlord is entitled to an Order of Possession effective **2 days after service of the Order upon the Tenant**.

The Landlord has been successful in its application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

Pursuant to Section 72(2)(b) of the Act, the Landlord may deduct \$50.00 from the security deposit in satisfaction of recovery of the cost of the filing fee. The remainder of the security deposit must be administered in accordance with the provisions of the Act.

### **Conclusion**

I hereby grant the Landlord an Order of Possession effective **2 days after service of the Order upon the Tenant**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord may recover the cost of the \$50.00 filing fee by deducting that sum from the security deposit. The remainder of the security deposit must be administered in accordance with the provisions of the Act.

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: June 30, 2011.

---

Residential Tenancy Branch