



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for landlord's use of property. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to submissions of the other party.

I noted that the landlord named the male tenant and "all occupants" in making this application yet there were two tenants named on the tenancy agreement. Both parties agreed that two tenants currently reside in the rental unit. The landlord explained that she was uncertain as to the spelling of the female tenant's name when she filed the application. The male tenant in attendance at the hearing confirmed that his wife, the female tenant, is aware of this proceeding.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of the property?

### Background and Evidence

The parties agreed that the month-to-month tenancy commenced May 1, 2011 and the tenants are required to pay rent of \$1,200.00 on the last day of every month. The parties agreed that the landlord personally served the male tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property (the Notice) on May 18, 2011 with a stated effective date of July 18, 2011. The Notice indicates the reason for ending the tenancy is because the landlord or a close family member of the landlord intends to occupy the rental unit.

The landlord has requested an Order of Possession effective at 1:00 p.m. on July 31, 2011. The landlord submitted that she filed this application because the tenant had indicated he had not found another place to live when she talked to him in June 2011 and her son will be moving into the rental unit July 31, 2011.

The tenant confirmed that he did not dispute the Notice and has since found another place to live. The tenant confirmed the unit will be vacated by July 31, 2011 and did not object to the landlord obtaining an Order of Possession.

### Analysis

When a tenant receives a 2 Month Notice, the tenant has 15 days to dispute the Notice pursuant to section 49 of the Act. If the tenant does not dispute the Notice served upon him the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice. Since the tenants did not dispute the Notice served upon them, and I find the Notice otherwise valid, the tenancy shall end and the landlord is entitled to an Order of Possession.

The stated effective date of July 18, 2011 does not comply with the requirements of the Act and automatically changes to comply with the Act under section 53. I find the landlord's request for an Order of Possession effective July 31, 2011 to be compliant with the Act. Accordingly, I grant the landlord's request for an Order of Possession effective at 1:00 p.m. on July 31, 2011.

The landlord must serve the Order of Possession upon the tenants and may enforce it through The Supreme Court of British Columbia as an Order of the court.

I find the decision to file this application and seek an Order of Possession was a business decision of the landlord and not attributable to the actions of the tenants. Therefore, the landlord must bear the cost of the filing fee and I make no award for its recovery from the tenant.

### Conclusion

The landlord is provided an Order of Possession effective at 1:00 p.m. on July 31, 2011 to serve upon the tenants.

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: July 26, 2011.

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Residential Tenancy Branch