



# 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 Dispute Resolution seeking an order of possession.

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

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for landlord's use of property; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 49, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by both parties on August 29, 2010 for a 1 year fixed term tenancy beginning on September 1, 2010 with an end date of August 31, 2011 for a monthly rent of \$790.00 due on the 1<sup>st</sup> of the month with a security deposit of \$395 paid on August 20, 2010; and
- A copy of a 2 Month Notice to End Tenancy for Landlord's Use of Property issued on June 11, 2011 with an effective vacancy date of August 31, 2011 citing all of the conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give the notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The landlord testified he served the tenant with this notice by posting it on the door of the rental unit on June 11, 2011.

The landlord submitted in his Application that the "Tenant refuses all attempts to discuss her move and to the best of our knowledge has no plans to move in the specified time." The tenant testified that she does not dispute the notice and intends to move out on or before the end of the tenancy, she posed no opposition the landlord having being granted an order of possession.

### Analysis

Section 55 of the *Act* allows the director to grant an order of possession should a landlord make an Application for Dispute Resolution if a notice to end the tenancy has been given and the tenant has not disputed the notice by filing an Application for Dispute Resolution and the time for making that Application has expired.

Section 49(8) stipulates that a tenant may dispute a 2 Month Notice to End Tenancy for Landlord's Use of Property within 15 days after the date the tenant receives the notice.

I accept the landlord served the Notice to End Tenancy on the tenant by posting it on her door on June 11, 2011 and in accordance with Section 90 the notice is deemed to be received on the 3<sup>rd</sup> day after it is posted. As such, the tenant had until June 27, 2011 to submit an Application for Dispute Resolution.

### Conclusion

For the reasons noted above, I find the landlord is entitled to an order of possession effective **August 31, 2011 after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

As the landlord has provided no evidence of the tenant's intent to not move out of the rental unit on or before the effective date of the notice, I dismiss the portion of the landlord's application seeking recovery of the filing fee for this Application.

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: August 04, 2011.

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Residential Tenancy Branch