



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Landlord's Use of Property.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

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### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

### Background and Evidence

The rental unit consists of a single detached home. The tenancy began March 1<sup>st</sup>, 2005, and renewed on April 1<sup>st</sup>, 2011 as a fixed term tenancy ending April 1<sup>st</sup>, 2012. Both parties signed the contract agreement wherein the tenant agreed that at the end of the fixed term, the tenancy ends and the tenant must move out of the residential unit. The rent is currently \$1500.00 per month.

The parties' testimony was lengthy; as such I will summarize the salient points of this dispute as follows:

The landlord testified that she told the tenant that she would eventually want to take possession of the house for her son since 2009, and reminded her of this in July 2011. She stated that on January 16<sup>th</sup>, 2012, she served the tenant with a 2 Month Notice to End Tenancy effective April 1<sup>st</sup>, 2012.

In her documentary evidence, the landlord provided a copy of the 2 Month Notice to End Tenancy, and a copy of the fixed term tenancy agreement ending April 1<sup>st</sup>, 2012. The landlord requested an Order of Possession as she does not believe that the tenant is taking the term of the tenancy agreement seriously.

The tenant testified that she has been living under the threat of the landlord's son moving in for years, but that since it never materialized she kept renewing the tenancy agreement. She stated that she sustained a significant head injury last July 2011 that has significantly impaired her mentally, and that although recovering slowly, she is still under treatment and under medication. She stated that she did not expect to receive a 2 Month Notice to End Tenancy because of the previous patterns, and that since her accident she is not capable of dealing with finding new accommodations on such a short notice. She stated that she has been a good tenant and pleaded at length with the landlord for more time.

In her documentary evidence, the tenant provided letters from her live-in partner, her father, and a medical note from her physician, stating in part that moving at this time would be detrimental to the tenant's health.

### Analysis

The tenancy agreement is a contract of adhesion drawn by the landlord. If the tenant wished to rent from the landlord under any other terms than those specified in the agreement, she ought not to have signed the agreement. Once signed, the tenant is obliged to accept the terms of the agreement without modification. This agreement was signed before the tenant's accident in July 2011. While I commiserate with the tenant's

misfortune, I have no legal basis under the Act to grant the tenant more time than the time specified in the agreement. By virtue of the fixed term agreement, the landlord was not required to serve the tenant with a 2 Month Notice to End Tenancy.

Accordingly the landlord is entitled to an Order of Possession

Conclusion

I grant the landlord an Order of Possession effective no later than April 1<sup>st</sup>, 2012.

This 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: February 28, 2012.

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Residential Tenancy Branch