



# 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 an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- b) An Order of Possession pursuant to Sections 49 and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord gave sworn testimony that she personally served the Notice to end Tenancy dated March 31, 2013 on March 31 and personally served the Application for Dispute Resolution on May 3, 2013. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant was issued a Notice to End Tenancy dated March 31, 2013 and effective May 30, 2013 pursuant to section 49 for landlord's use of the property. Is the landlord now entitled to an Order of Possession and to recover the filing fee?

### **Background and Evidence:**

The tenant did not attend although personally served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The evidence is that the tenant commenced living in the premises in October, 2011, a security deposit of \$325 was paid and rent is currently \$650 a month. The landlord gave the Notice to End Tenancy because she needs the unit as living accommodation for her parents. She said she gave free rent for the month of May to the tenant as required by sections 49 and 51.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

**Order of Possession**

I find that the landlord is entitled to an Order of Possession. A Notice to End Tenancy was served on the tenant on March 31, 2013 and she has not applied to set aside the Notice and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service. Further, I find the landlord requires the unit for the use of her parents which is a reason to end the tenancy under section 49 of the Act. I find the tenancy is terminated May 30, 2013.

**Conclusion:**

I find this tenancy is terminated. I find the landlord is entitled to an Order of Possession effective two days from service. I find the landlord is entitled to recover filing fees paid for this application.

**I HEREBY ORDER that the landlord may deduct \$50 from the security deposit of the tenant to recover her filing fee. This will leave \$275 in trust for the tenant to be dealt with in accordance with section 38 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: May 30, 2013

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Residential Tenancy Branch