



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNL, OPL, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Landlord applied on May 6, 2013 for:

1. An Order of Possession - Section 55; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant applied on May 8, 2013, 2011 for:

1. More time to make an application to cancel a notice to end tenancy – Section 66;
2. An Order cancelling a Notice to End Tenancy – Section 46;
3. An Order to recover the filing fee for this application - Section 72; and
4. Other

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on May 1, 2006. Rent of \$1,755.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$700.00 as a security deposit. On March 20, 2013 the Landlord personally served the Tenant with a one month notice to end tenancy for landlord's use (the "Notice"). The Notice has an effective date of May 31, 2013 and the reason for the Notice is that the unit will be occupied by the landlord or the landlord's spouse or a close family member of the landlord or the landlord's spouse. The Tenant has not moved out of the unit and the Landlord has not provided the Tenant with the compensation required under the Notice. The Landlord agrees to ensure that the Tenant receives the equivalent of one month's rent today

### Analysis

Section 49 of the Act provides that a landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. Although the Tenant disputed the Notice, the Tenant failed to appear at the Hearing. As a result the Tenant's application is dismissed and I find that the Landlord has substantiated an entitlement to an order of possession. The Landlord agrees to provide the Tenant with the required compensation and I note that this compensation is required to be paid on or before the effective date of the Notice, or no later than 1:00 p.m. on May 31, 2013. As the Landlord has been successful, I find that the Landlord is entitled to recovery of the \$50.00 filing fee and I order the Landlord to deduct this amount from the security deposit of \$700.00.

### Conclusion

The Tenant's application is dismissed.

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order the Landlord to retain \$50.00 from the security deposit of \$700.00 in full satisfaction of the claim.

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

