



# 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 for Dispute Resolution by the landlord for an Order of Possession based on a Two Month Notice to End Tenancy for Landlord's Use dated March 26, 2013 and effective May 31, 2013. The landlord's application also included a monetary claim for rent owed.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

### **Preliminary Matter**

The landlord requested enforcement of the Two Month Notice to End Tenancy for Landlord's Use and an Order of Possession under section 55 of the Act.

In the same application, the landlord has also requested a Monetary Order for rent or damages under section 67 of the Act. No copy of a 10-Day Notice to End Tenancy for Unpaid Rent was before me.

The Residential Tenancy Rules of Procedure, Rule 2.3 states that, if, in the course of the dispute resolution proceeding, the dispute resolution officer determines that it is appropriate to do so, the officer may dismiss the unrelated disputes contained in a single application with or without leave to reapply.

I find that the portion of the landlord's application relating to a monetary claim pertains to an unrelated dispute that is not connected with the 2-Month Notice issued by the landlord under section 49 of the Act.

For this reason, I hereby sever the monetary issue from the issue of ending the tenancy. Accordingly, this hearing will only deal with the Two Month Notice to End Tenancy for Landlord's Use. The monetary claim is therefore dismissed with leave to reapply in a separate application.

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

- Is the landlord entitled to an Order of Possession based on the Two Month Notice to End Tenancy for Landlord's Use?

### **Background and Evidence**

The landlord had submitted into evidence a copy of the Two-Month Notice to End Tenancy, indicating that the landlord was ending the tenancy so that the landlord or a close family member could move in. The landlord is seeking an Order of Possession based on the Notice so that this can happen.

The tenant acknowledged that she did not file to dispute the Two Month Notice to End Tenancy for Landlord's Use and the tenant has accepted that the tenancy is ending.

### **Analysis**

Under section 49(3) of the Act under, "*Landlord's notice: landlord's use of property*", the Residential Tenancy Act states that 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.

Section 49(8) of the Act states that a tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice. The tenant confirmed that she did not file an application to dispute the Notice.

Section 49(9) of the Act provides that, if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (8), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit by that date.

I find that the tenant was served with a Two Month Notice to End Tenancy for Landlord's Use in the proper form that was fully compliant with the Act. I find that the tenant then failed to dispute the Notice within the required 15 days.

For the reasons above, I find that the landlord is entitled to an Order of Possession.

I also find that the landlord is entitled to be compensated for the cost of the application and I order that the landlord may withhold \$50.00 from the tenant's security deposit.

I hereby issue an Order of Possession in favour of the landlord effective at 1:00 p.m. on May 31, 2013. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

### **Conclusion**

The landlord is partly successful in the application and is granted an Order of Possession. The landlord's monetary claim is dismissed with leave to reapply.

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 16, 2013

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Residential Tenancy Branch

