



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy. The hearing was conducted via teleconference and was attended by the landlord only. During the hearing, the landlord verbally requested an order of possession should the tenant be unsuccessful in his Application.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, pursuant to Section 49 of the *Residential Tenancy Act (Act)*.

If the tenant is unsuccessful in his Application seeking to cancel the 2 Month Notice to End Tenancy for Landlord's Use of Property it must be decided if the landlord is entitled to an order of possession, pursuant to Section 55 of the *Act*.

### Background and Evidence

The landlord testified the tenancy began on May 1, 2013 as a month to month tenancy for a monthly rent of \$900.00 due on the 1<sup>st</sup> of each month with a security deposit of \$200.00 paid.

The landlord also testified that he had his real estate agent serve the tenant with a 2 Month Notice to End Tenancy for Landlord's Use of Property on November 19, 2013. The landlord submits that the Notice provided an effective vacancy date of January 19, 2014 and was given because all conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give a notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The landlord submits the Notice was posted to the tenant's rental unit door on November 19, 2013.

### Analysis

Section 49 of the *Act* allows a landlord to end a tenancy by issuing a notice to end tenancy with an effective date not earlier than 2 months after the date the tenant receives the notice and the day before the day in the month that rent is payable under the tenancy agreement if all conditions for sale of the rental unit have been satisfied and the purchaser has asked the landlord, in writing, to give a notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

Section 49(8) of the *Act* allows a tenant to dispute a notice to end tenancy under Section 49 within 15 days after the date the tenant receives the notice. Section 49(9) states that if a tenant does not submit an Application for Dispute Resolution seeking to dispute the notice within 15 days the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the notice and must vacate the rental unit by that date.

As per the landlord's testimony I find the tenant received the Notice on November 22, 2103, which allows three days from the date the Notice was posted on the rental unit door. As such the tenant had until December 7, 2013 to file his Application for Dispute Resolution seeking to cancel the Notice. The tenant applied on December 6, 2013. However, as the tenant has failed to attend this hearing I find this has the same effect as if the tenant had not applied to dispute the Notice within 15 days and I find the tenant has accepted the end of the tenancy.

Section 55(1) of the *Act* states if a tenant makes an Application for Dispute Resolution to dispute a landlord's notice to end tenancy, the director must grant an order of possession to the landlord if, the landlord makes an oral request for an order of possession and the director dismisses the tenant's Application or upholds the landlord's notice.

### Conclusion

I find the landlord is entitled to an order of possession effective **January 31, 2014 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.

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: January 28, 2014

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Residential Tenancy Branch

