



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

OPC

### **Introduction**

This was the hearing of cross-applications by the tenant and landlord. The tenant sought to cancel a 1 Month Notice to End for Landlord's use of property and recover the filing fee. The landlord sought an Order of Possession in respect to the same Notice, and to recover the filing fee. The hearing was conducted by conference call. Although the tenant filed their application and served the landlord with their Notice of Hearing they did not call into the conference and did not participate in the hearing.

The tenant's application is preliminarily **dismissed**, without leave to reapply. The landlord testified that the tenant still resides in the rental unit and still seek an Order of Possession. The landlord was permitted to advance their application / claim.

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

Is the landlord entitled to an Order of Possession?

### **Background and Evidence**

On March 24, 2014 the tenant was served with a 2 month Notice to End Tenancy for landlord's use of property. Although the tenant ultimately filed to dispute the notice, they did not do so within the 15 days permitted under the Act and has not applied for more time to dispute the Notice, and their application has been dismissed.

The landlord provided a copy of the Notice to End dated March 24, 2014 with an effective date of May 31, 2014.

### **Analysis**

Section 55 of the Act provides as follows:

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the Director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the Director dismisses the tenant's application or upholds the landlord's notice.

The tenant was served with the Notice to End and their application is dismissed. As a result, I find that as the effective date of the Notice to End has passed the landlord is entitled to an **Order of Possession** effective 2 day from the day it is served on the tenant. As the landlord was successful in their application, they are entitled to recover their filing fee.

### **Conclusion**

**I grant** an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. The tenant must be served with this **Order of Possession**. The landlord has discretion, however, should the landlord serve the Order and 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** that the landlord may retain \$50.00 from the tenant's security deposit in satisfaction of their filing fee.

*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: June 09, 2014

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Residential Tenancy Branch

