



# 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 the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for landlord's use of the property pursuant to section 55; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:45 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he sent the tenant a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) by registered mail on February 19, 2014. He provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88 and 90 of the *Act*, the tenant was deemed served with the 2 Month Notice on February 24, 2014, the fifth day after its mailing. The landlord testified that he sent a copy of his dispute resolution hearing package by registered mail on May 3, 2014. He provided the Canada Post Tracking Number to confirm this mailing. He testified that Canada Post records show that his hearing package was successfully delivered to the tenant on May 8, 2014. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with a copy of the landlord's dispute resolution hearing package on May 13, 2014, the fifth day after its mailing.

At the commencement of this hearing, the landlord said that the tenant moved from this rental unit on or about May 24, 2014. However, the landlord said that the tenant has kept some of his belongings in a locked storage shed and has not returned the key for that shed. The landlord requested the issuance of an Order of Possession so as to enable him to obtain vacant possession of all portions of the rental property previously occupied by the tenant in accordance with their residential tenancy agreement.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of the property? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord's 2 Month Notice, entered into written evidence by the landlord, identified the following reason for seeking an end to this tenancy:

- *The landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant...*

The landlord also entered into written evidence a copy of A February 17, 2014 letter from the municipality in which the municipality notified him of a bylaw contravention requiring him to remove a secondary suite from this location, the rental unit in this application.

Analysis

The tenant has not made application pursuant to section 49(8) of the *Act* within fifteen days of being deemed to have received the 2 Month Notice. In accordance with section 49(9) of the *Act*, the tenant's failure to take this action within fifteen days led to the end of her tenancy on April 30, 2014, and required her to vacate the rental premises by that date. As that has not occurred in full, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

As the landlord has been successful in this application, I allow the landlord to recover his \$50.00 filing fee from the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$50.00, which allows the landlord to recover his filing fee from the tenant. The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: May 26, 2014

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Residential Tenancy Branch

