



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MT, CNL, FF  
OPL

### Introduction

This hearing was scheduled in response to the tenant's application for more time to make an application to cancel a notice to end tenancy / cancellation of a 2 month notice to end tenancy for landlord's use of property / and recovery of the filing fee. The hearing was scheduled to commence at 9:30 a.m. on August 28, 2014 by way of telephone conference call. The landlord was present at that time and gave affirmed testimony. By 9:40 a.m. the tenant had still not appeared and the call was ended. During the hearing the landlord made an oral request for an order of possession.

### Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

There is no written tenancy agreement before me in evidence for this tenancy which the landlord testified began approximately 7 years ago. Monthly is due and payable in advance on the first day of each month. Rent is currently \$730.00. A security deposit of \$350.00 was collected near the start of tenancy.

Pursuant to section 49 of the Act which speaks to **Landlord's notice: landlord's use of property**, the landlord issued a 2 month notice to end tenancy dated June 01, 2014. The notice was personally served on or about June 01, 2014. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 01, 2014. The reason identified on the notice in support of its issuance is as follows:

The landlord has all the necessary approvals required by law to convert the rental unit to a non-residential use.

Documentary evidence also includes a letter to the landlord from the local government authority dated May 29, 2014, in which the landlord is informed, in part, as follows:

On 2014 May 13, an inspection of the subject premises was done by Building Department staff in response to a complaint alleging the unauthorized construction of a secondary suite.

As well, the local government authority notes in its letter that certain work was apparently undertaken in the unit “without a permit,” and the landlord is instructed to bring the unit into compliance with local government bylaws.

The tenant filed an application to dispute the notice on July 02, 2014, and he presently continues to reside in the unit.

### Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 2 month notice to end tenancy for landlord’s use of property dated June 01, 2014. The tenant’s application to dispute the notice was filed on July 02, 2014, which is beyond the 15 day period available to dispute the notice after receiving it, pursuant to section 49(8) of the Act. While the tenant applied for more time to make an application to dispute the notice, he provided no documentary evidence in support of his application for more time, and neither did he attend the hearing in order to speak to his application.

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

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.

Following from all of the above, the tenant's application is hereby dismissed, and I find that the landlord has established entitlement to an order of possession.

Conclusion

The tenant's application is hereby dismissed in its entirety.

I hereby issue an **order of possession** in favour of the landlord effective not later than **September 30, 2014**. This order must be served on the tenant. 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.

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: August 28, 2014

---

Residential Tenancy Branch

