



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL

### Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the *Act*) for an Order of Possession for landlord's use of the property.

The tenant did not attend this hearing, although I waited until 10:45 a.m. in order to enable him to connect with this teleconference hearing scheduled for 10:30 a.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 she posted a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) on the tenant's door on June 13, 2014. She testified that she posted a copy of her dispute resolution hearing package including a copy of her application for dispute resolution on the tenant's door on July 18, 2014. In accordance with sections 88, 89(2) and 90 of the *Act*, the tenant was deemed served with the above documents on the third day after their posting on his door.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of the property?

### Background and Evidence

The landlord gave undisputed sworn testimony that the tenant moved into the basement of her home prior to the scheduled February 1, 2014 commencement of his periodic tenancy agreement with her. Monthly rent is set at \$400.00, payable in advance on the first of each month. The landlord continues to hold a \$100.00 security deposit paid on or about March 1, 2014.

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 rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse...*

In her written evidence and in her sworn testimony, the landlord stated that she was not interested in continuing this tenancy because she was disturbed by someone living in her basement. At the hearing, the landlord testified that neither she nor a family member will be moving into the basement rental unit. She testified that she plans to use the basement room currently rented to the tenant for guests who may visit her from time to time.

#### Analysis

At the hearing I advised the landlord of my finding that her stated intentions for the use of the rental unit do not coincide with the reason identified in her 2 Month Notice. A 2 Month Notice cannot end a tenancy because the landlord no longer wishes to rent the rental unit to a tenant. As I find that the landlord had no grounds to obtain an end to this tenancy on the basis of the 2 Month Notice, I dismiss the landlord's application without leave to reapply.

#### Conclusion

I dismiss the landlord's application without leave to reapply, which has the effect of cancelling the 2 Month Notice. The 2 Month Notice is cancelled and of no continuing force or effect.

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: September 29, 2014

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Residential Tenancy Branch

