



# 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 a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain an order of possession based on an undisputed 2 Month Notice to End Tenancy for Landlord's Use of Property (the "2 Month Notice").

The landlord, the son of the landlord, and the spouse of the landlord attended the teleconference hearing. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of their testimony is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were served on the tenants by posting the tenants' door on July 2, 2015. A photo submitted in evidence supports the landlord's testimony.

Documents posted to the door are deemed served three days after mailing pursuant to section 90 of the *Act*. Therefore, I find the tenants were deemed served as of July 5, 2015 with the Notice of Hearing, Application and documentary evidence.

### Issue to be Decided

- Is the landlord entitled to an order of possession under the *Act*?

### Background and Evidence

The landlord testified that she purchased the home in April 2015, and the tenant was already living in the rental unit when she purchased the home. As she does not have a copy of the tenancy agreement, she relied on the what the seller advised her which was that the tenancy is a month to month tenancy, and that monthly rent is \$675 per month and due on the first day of each month. The landlord did confirm that she has a security deposit from the tenants in the amount of \$337.50.

The landlord testified that a 2 Month Notice dated May 11, 2015 was posted to the tenants' door and mailed to the tenants via registered mail. A tracking number was provided in evidence. According to the Canada Post registered mail tracking website, the registered mail package was successfully delivered to the tenants on May 12, 2015. As a result, I find the tenants were served on May 12, 2015 with the 2 Month Notice. The landlord stated that the tenants have not disputed the 2 Month Notice, which includes an effective vacancy date of August 1, 2015.

The landlord testified that the tenants continue to have some personal items in the rental unit as they have left the blinds open and as a result, they are requesting an order of possession.

The landlord made a verbal request for the return of their filing fee if they were so entitled.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Order of possession** – I accept the landlord's undisputed testimony that the tenants were served with the 2 Month Notice dated May 11, 2015 on May 12, 2015, which is supported by the Canada Post tracking information on the registered mail tracking website. As the tenants did not dispute the 2 Month Notice, pursuant to section 49(9) of the *Act*, I find the tenants are conclusively presumed under the *Act* to have accepted that the tenancy will end on the effective vacancy date listed on the 2 Month Notice which is August 1, 2015.

Therefore, I **grant** the landlord an order of possession **effective August 1, 2015 at 1:00 p.m.** The tenancy will end on August 1, 2015 at 1:00 p.m.

As the landlord's application had merit, **I grant** the landlord the recovery of the filing fee in the amount of **\$50. I ORDER** the landlord to retain \$50 from the tenants' \$337.50 security deposit in full satisfaction of the filing fee, which I find leaves a security deposit balance of \$287.50.

### Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective August 1, 2015 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been ordered to retain \$50 from the tenants' \$337.50 security deposit in full satisfaction of the filing fee, which I find leaves a security deposit balance of \$287.50.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 24, 2015

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Residential Tenancy Branch

