



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

CNL

### Introduction

This hearing dealt with a Tenants' Application for Dispute Resolution wherein the Tenant sought an Order cancelling a 2 Month Notice to End Tenancy for Landlord's Use issued May 27, 2015 (the "Notice").

The Applicant Tenant did not appear at the hearing. Conversely, the Landlord appeared at the hearing.

The hearing was by telephone conference call and was to begin at 10:30 a.m. on August 13, 2015. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the Landlord. As the Applicant Tenant did not attend the hearing by 10:40 a.m., I dismiss her claim without leave to reapply.

The Landlord gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me. At the outset of the hearing the Landlord advised that the Tenant misspelled his name and incorrectly noted his address on the Application; pursuant to section 64(3)(c) of the *Residential Tenancy Act* (the "Act"), I amend the Tenant's application to correctly note the Landlord's name and address.

The Landlord confirmed that the Tenant vacated the rental unit. Although the Tenant was no longer in possession of the rental unit, the Landlord made an oral request for an Order of Possession at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

The Landlord testified that the Notice was posted to the rental unit door on May 27, 2015. Pursuant to section 90, documents served in this manner are deemed served three days later; namely May 30, 2015.

The Notice informed the Tenant that she had 15 days in which to dispute the Notice. As such, she had until May 15, 2015 to dispute the Notice as the 15 days expired on Sunday May 14, 2015 which is a holiday.

The Tenant made her Application on June 17, 2015 and was therefore out of time. The Tenant did not apply for more time pursuant to section 66(1) of the *Act*.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not apply within the 15 days prescribed by section 49(8) of the *Act*, nor did she attend the hearing and is therefore conclusively presumed under section 49(9) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

### Conclusion

The Tenant failed to apply within 15 days and did not attend the hearing and dispute the Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an Order of Possession pursuant to section 55 of the *Act*.

This decision is final and binding on the parties, except as 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: August 14, 2015

