



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: OPL FF

### **Introduction:**

Only the landlord attended and gave sworn evidence that he served the Two Month Notice to End Tenancy personally on August 16, 2016 and the Application for Dispute Resolution by registered mail on September 1, 2016. The tenant did not claim the mail and it was returned to him. I find the documents were legally served for the purposes of this hearing. The Application is deemed to be received on September 7, 2016. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for landlord's use of the property pursuant to sections 49 and 55;
- b) To recover the filing fee for this application.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 49 and he is entitled to an Order of Possession or is the tenant entitled to any relief? Is the landlord entitled to recover the filing fee?

### **Background and Evidence**

Only the landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the landlord wants the property for his own use. He said he has already worked past retirement age and wants to have this residence near the sea now to enjoy retirement. The rent for the unit was \$1200 and a security deposit of \$600 was paid. The landlord plans to meet the tenant soon to return his security deposit.

Included with the evidence are the Notice to End Tenancy, a letter informing the tenant of his right to a free month's rent and return of his security deposit and an audio CD of the personal service of the Notice to End Tenancy.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

**Analysis:**

I find the Notice to End Tenancy for landlord's use of the property was served on August 15, 2016. The tenant has filed no dispute to the Notice. Pursuant to section 49(8)(9), if a tenant does not dispute the Notice within 15 days after receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and must vacate the rental unit by that date. I find this tenant is presumed to have accepted the end of the tenancy on October 31, 2016 and the landlord is entitled to an Order of Possession effective October 31, 2016.

I find the landlord states he wants to waive the filing fee so none will be awarded.

**Conclusion:**

I find the landlord entitled to an Order of Possession effective October 31, 2016. The filing fee is waived by the landlord.

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: October 26, 2016

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Residential Tenancy Branch