



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OPC, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a notice to end tenancy for landlord's use of property and for the recovery of the filing fee. The landlord also applied for "other" and explained that this portion of her application was to do with the utility costs owed by the tenant.

The landlord testified that she had provided the tenant with a notice to pay utilities on February 09, 2016. The landlord did not file any document to support the amount of her claim and stated that she was not in receipt of the final bill as the tenant has not yet moved out. Accordingly, I dismiss this portion of the landlord's claim with leave to reapply.

The notice of hearing was served on the tenant on February 10, 2016 by registered mail. The landlord filed the tracking slips into evidence. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession and for the recovery of the filing fee?

### **Background and Evidence**

The landlord testified that the tenancy started in May 2013. The monthly rent is \$1,175.00 payable on the first of each month. Prior to moving in, the tenant paid a deposit of \$580.00

The landlord stated that on December 21, 2016, she served the tenant with a notice to end tenancy for landlord's use of property. The effective date of the notice is February 28, 2017. The tenant did not dispute the notice and as of the date of this hearing on March 09, 2017, the tenant has not handed over vacant possession to the landlord.

The landlord has applied for an order of possession effective immediately.

### **Analysis**

Based on the undisputed testimony of the landlord, I also find that the tenant received the notice to end tenancy on December 21, 2016 and did not make application, pursuant to Section 49 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

The landlord is entitled to the recovery of the filing and may retain \$100.00 from the security deposit of \$580.00.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant.

The landlord may retain \$100.00 from the security deposit.

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: March 09, 2017

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Residential Tenancy Branch