



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

Tenant: CNL, OLC, FF  
Landlord: OPL

### **Introduction**

This hearing was convened in response to cross applications by the parties pursuant to the *Residential Tenancy Act* (the Act). The applicant tenant applied May 13, 2017 for an Order to cancel the landlord's 2 Month Notice to End. The applicant landlord applied May 30, 2017 for an Order of Possession.

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated May 16, 2017 after filing their application. The tenant, however, did not attend the hearing set for today at 11:00 a.m. The phone line remained open during the hearing and was monitored throughout the hearing. The only party to call into the hearing was the cross-applicant landlord. As a result, the tenant's application was preliminarily dismissed. The landlord testified the tenant still resides in the unit and that communication with the tenant has been in relation to an offer of compensation in addition than prescribed by the Act.

I accept the landlord's evidence that the tenant was served with their application for dispute resolution and notice of hearing, personally and by attaching it to the tenant's door on June 02, 2017. The landlord was given opportunity to be heard, to present evidence and to make submissions.

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

Is the notice to end tenancy valid?  
Is the landlord entitled to an Order of Possession?

### **Background and Evidence**

The relevant evidence in this matter is as follows. On May 06, 2017 the landlord served the tenant a 2 Month notice to end Tenancy for Landlord's Use for the stated purpose prescribed by Section 49(5) of the Act with an effective date of July 31, 2017. The landlord's representative testified the buyer fully intends to personally occupy the rental unit upon possession of the unit and included a signed statement from the buyer confirming this intention. The tenant originally applied to dispute the landlord's notice to end however the tenant has failed to appear for the Dispute Resolution hearing and as a result their application to set aside the landlord's notice has been dismissed.

Section 55 of the *Act* provides that if a tenant's application to dispute a Notice to End Tenancy is dismissed or the landlord's notice is upheld the landlord is entitled to an Order of Possession if the landlord's notice complies with Section 52 of the Act.

In relevant part Section 55 states as follows,

**Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 *[form and content of notice to end tenancy]*, and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I find that the landlord's Notice to End for Landlord's Use of Property complies with Section 52 of the Act and as a result of dismissing the tenant's application I must grant the landlord an Order of Possession.

**Conclusion**

The tenant's application is dismissed, without leave to reapply.

The landlord is given an Order of Possession pursuant to Section 55(1) of the Act.

**I grant an Order of Possession** to the landlord effective **July 31, 2017**. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the

Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

**This Decision is final and binding.**

*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: June 26, 2017

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Residential Tenancy Branch