



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for: an Order of Possession for Landlord's Use pursuant to section 55; and authorization to recover the filing fee for this application pursuant to section 72.

The landlord attended this hearing with respect to his own application however the tenant did not attend. The teleconference hearing line remained open for one hour.

The landlord testified with respect to service of his documents for this hearing. He testified that he personally served the tenant with a 2 Month Notice to End Tenancy for Landlord's Use ("2 Month Notice") on January 10, 2018. He testified that he served the tenant with his Application for Dispute Resolution package ("ADR") including notice of this hearing on January 13, 2018 by registered mail and with additional evidence on February 27, 2018. While the tenant did not attend this hearing, I find that he was deemed served with the landlord's ADR on January 17, 2018 (5 days after its registered mailing). I also find that the tenant was sufficiently served with the 2 Month Notice.

### Preliminary Matter: Proceeding with Dispute Resolution Hearing

During the course of this hearing time, the landlord stated that he had received Application for Dispute Resolution packages from his two tenants – one residing in the upstairs of his residential premises and one residing in the downstairs suite. He testified that the tenant who is the respondent for this scheduled hearing, as well as his other tenant had both applied to cancel Notices to End Tenancy that had been issued to them by the landlord. He testified that the hearing of those applications had been set for the same date: 1 week from this hearing date.

When a landlord applies for an Order of Possession, he is required to prove certain aspects of his claim including,

- that the respondent tenant(s) has been sufficiently served with notice of this hearing to ensure that the respondent tenant has a full opportunity to respond to the landlord's application and evidence;

And

- that the notice is justified in that it meets the grounds relied upon to end the tenancy;
  - 2 Month Notice to End Tenancy: a landlord may be required to prove that he is acting in good faith in issuing the Notice

The requirements for proper service for a hearing and proper notice of an end to a tenancy are based on the importance of the principles of fairness within the dispute resolution process. A responding party must be in a position to know the case against them and make an informed decision to participate (or not) in the hearing process.

The tenants are aware of a hearing date one week from today: I find that this complication may have led the tenants to believe that all of the matters between themselves and the landlords were intended to be addressed at this second hearing date. Out of an abundance of caution that the tenants did not intend to abandon their applications by a failure to attend this hearing and with the consent of the landlord, I adjourn the landlord's application for one week's time. This will ensure the presence of all parties who wish to attend and a balanced hearing of the evidence.

### Conclusion

The landlord's application and the hearing of his claim is adjourned to March 23, 2018 at 9:00 a.m. The landlord was provided with the details of the next scheduled hearing (including date, time, hearing access codes) at this hearing.

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 16, 2018

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Residential Tenancy Branch