



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPL, FF

### Introduction

On January 23, 2018, the Landlord submitted an Application for Dispute Resolution requesting an order of possession based on issuance of a 2 Month Notice to End Tenancy for Landlord Use of Property ("the Two Month Notice").

The matter was set for a conference call hearing. Both parties appeared at the hearing. The Landlord and Tenant were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions 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.

### Issue to be Decided

- Is the Landlord entitled to an order of possession based on the issuance of a 2 Month Notice To End Tenancy For Landlord's Use Of Property?

### Background and Evidence

The Parties testified that the tenancy began on November 1, 2016, as a fixed term tenancy that continued thereafter as a month to month tenancy. Rent in the amount of \$2,600.00 is to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$1,300.00 and a pet damage deposit in the amount of \$1,300.00.

The Landlord issued the Tenant a 2 Month Notice dated November 30, 2017. The Landlord testified that he posted the 2 Month Notice on the Tenant's door. The Landlord provided a proof

of service document stating the date and time the 2 Month Notice was posted to the door. The Landlord provided a photograph taken of the 2 Month Notice posted to the Tenant's door.

The reason for ending the tenancy in the Notice states:

*The Landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant.*

The effective date shown on the 2 Month Notice is January 31, 2018.

The 2 Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

If a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Landlord testified that the Tenant has failed to move out of the rental unit and has not paid the rent owing under the tenancy agreement for the last couple months.

The Tenant testified that he received the 2 Month Notice on November 30, 2017. The Tenant confirmed that he did not dispute the 2 Month Notice by making an application for dispute resolution. He testified that he did not read his rights to dispute the notice and he resigned himself to accept that the tenancy was ending. He testified that he later decided he wanted to dispute the Notice.

As the effective date of the Notice has passed, the Landlord seeks an immediate order of possession.

### Analysis

Pursuant to section 49 (6) of the Act, if a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice.

Under section 55 (2)(b) of the Act, if the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

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

The Tenant received the 2 Month Notice on November 30, 2017, and did not dispute the Notice within 15 days. Pursuant to section 49 (6) of the Act, I find that the Tenant is conclusively

presumed to have accepted that the tenancy ended on the effective date of the notice. The tenancy has ended.

I find that the Notice complies with the requirements regarding form and content and 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.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. I grant authority to the Landlord to withhold \$100.00 from the Tenant's security deposit for the application fee.

### Conclusion

The Landlord's request for an order of possession based on the issuance of a 2 Month Notice To End Tenancy For Landlord's Use Of Property dated November 30, 2017, is granted.

The Tenant received the 2 Month Notice and did not dispute the Notice or move out on the effective date of the Notice.

I grant the Landlord an order of possession effective two (2) days after service on the Tenant. The Tenant must be served with the order of possession.

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 22, 2018

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Residential Tenancy Branch