



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for an Order of Possession based on a Two Month Notice to End Tenancy for Landlord’s Use of Property.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant during the approximately 10 minutes that the phone line remained open. As the Tenant was not present, service of the Notice of Dispute Resolution Proceeding (the “Notice of Hearing”) was addressed.

The Landlord provided affirmed testimony that the Notice of Hearing documents were sent to the Tenant by registered mail. The registered mail tracking number was provided during the hearing and is included on the front page of this decision. Entering the tracking number on the Canada Post website confirms the mail as claimed. I find that the Tenant was duly served in accordance with Section 89 of the *Act*.

The Tenant did not submit any evidence prior to the hearing.

### Preliminary Matter

The Tenant’s last name was different on the Application than it was on the documents submitted into evidence. The agent for the Landlord clarified during the hearing and the spelling of the Tenant’s last name was amended on the Application for Dispute Resolution, pursuant to Section 64(3)(c) of the *Act*.

### Issue to be Decided

Is the Landlord entitled to an Order of Possession based on a Two Month Notice to End Tenancy?

### Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. The tenancy began on March 1, 2011. Current rent is \$785.00 per month and a security deposit of \$392.50 was paid at the outset of the tenancy. The tenancy agreement was submitted into evidence and confirms the details of the tenancy.

On March 28, 2018, the Landlord served the Tenant with a Two Month Notice by providing the notice to her in person. The effective end of tenancy date of the notice was May 31, 2018. The reason for the Two Month Notice was provided as follows:

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

The Landlord testified that they did not receive any notification from the Tenant that she applied to dispute the notice. As she did not vacate the rental unit by the effective end of tenancy date of the notice, the Landlord has applied for an Order of Possession.

The Landlord confirmed that the Tenant has paid rent and it has been accepted “for use and occupancy only.” The Landlord also provided testimony that one month of rent compensation as per Section 51(1) of the *Act* has not yet been provided to the Tenant as they were unsure when she would be moving out.

### Analysis

I accept the undisputed testimony of the Landlord that the Two Month Notice was served to the Tenant in person on March 28, 2018. In accordance with Section 49(8) of the *Act*, a tenant has 15 days in which to dispute a Two Month Notice.

If a tenant does not dispute the Two Month Notice within 15 days, they are conclusively presumed to have accepted that the tenancy ends on the date of the notice, as per Section 49(9) of the *Act*.

I note that the legislation has changed since the issuance of the Two Month Notice and now provides 30 days to dispute a notice to end tenancy for renovations. However, as the Two Month Notice was signed and served to the Tenant prior to the legislation changes, the Tenant still had 15 days to dispute, in accordance with the legislation at that time. Regardless, I accept the evidence before me that the Tenant did not apply to dispute the notice and thus has accepted that the tenancy ends.

As the Tenant is conclusively presumed to have accepted that the tenancy ended on May 31, 2018, I find that the Landlord is entitled to a two-day Order of Possession, pursuant to Section 55(2) of the *Act*.

The Landlord must provide one month of rent compensation to the Tenant in accordance with Section 51(1) of the *Act* and must return any overpayment of rent to the Tenant on a pro-rated basis after the Tenant vacates the rental unit.

#### Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 1, 2018

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Residential Tenancy Branch