



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NINTH STREET HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes** CNL-4M, FFT

### **Introduction**

This hearing was convened in response to an application by the tenant filed July 30, 2018 to dispute a 4 Month Notice to End Tenancy for Landlord's Use dated June 25, 2018 and with an effective date of October 31, 2018. The tenant further seeks to recover the filing fee.

The applicant tenant was provided with a copy of the Notice of a Dispute Resolution Hearing dated July 30, 2018 after filing their application. The tenant, however, did not attend the hearing set for today at 9:30 a.m. The phone line remained open during the hearing time for a minimum of 15 minutes and was monitored throughout this time. The only party to call into the hearing was the respondent landlord. As a result, the tenant's application was preliminarily **dismissed**, without leave to reapply. The landlord testified the tenant still resides in the unit.

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

Is the landlord entitled to an Order of Possession pursuant to Section 55 of the Act?

### **Analysis**

The tenant has failed to appear for a scheduled Dispute Resolution hearing and as a result their application to set aside a 4 Month Notice to End Tenancy for Landlord's Use has been dismissed. **Section 55** of the *Act* provides that if a tenant's application to dispute a Notice to End a 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 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. The landlord is given an Order of Possession pursuant to Section 55(1) of the Act for the effective date of the Notice.

### **Conclusion**

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

**I grant an Order of Possession** to the landlord effective no sooner than **October 31, 2018**. 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: September 18, 2018

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Residential Tenancy Branch