



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes** CNL, FFT

### **Introduction**

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 2 Month Notice to End Tenancy for Cause (the 2 Month Notice) pursuant to - **section 49**; and
- to recover his filing fee for this application from the landlord - **section 72**.

I accept the tenant's evidence that despite the landlord having been personally served with the application for dispute resolution and notice of hearing in accordance with Section 89 of the Residential Tenancy Act (the Act) the landlord did not participate in the conference call hearing.

### **Preliminary matters**

At the outset of the hearing the tenant informed that they were withdrawing their application as they were vacating the rental unit October 31, 2018 in accordance with the 2 Month Notice to End received by them in August 2018. The tenant informed that they provided the landlord with notice that they are vacating and withheld the last month's rent as their compensation for the 2 Month Notice.

### **Issues to be Decided**

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

### **Background and Evidence**

The tenant received a 2 Month Notice to End Tenancy for Landlord's Use dated August 14, 2018. The tenant applied to dispute the Notice however has since determined to instead vacate in accordance with the Notice. The landlord did not attend the hearing to address the matters in dispute.

### **Analysis**

Having accepted that the tenant no longer seeks to dispute the landlord's Notice to End of this matter and the tenant's withdrawal of their application I find that I must uphold the landlord's Notice.

**Section 55(1)** of the Act states that if I dismiss the tenant's application or uphold the landlord's Notice to End I must grant the landlord an Order of Possession if the landlord's Notice complies with Section 52 of the Act in its form and content. I find the landlord's Notice to End complies with the form and content required by **Section 52** of the Act and is valid. As a result having upheld the landlord's Notice to end of this matter I find that the landlord is entitled to an Order of Possession effective the corrected effective date of the Notice, that being October 31, 2018. As further result the tenant's application is dismissed.

### **Conclusion**

The landlord's Notice to End is upheld. The tenant's application is effectively dismissed. The landlord is granted an Order of Possession.

**I grant an Order of Possession** to the landlord effective **October 31, 2018**. If the landlord determines to rely on the Order 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: October 15, 2018

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Residential Tenancy Branch