



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on October 5, 2018 (the “Application”). The Tenant disputed a Two Month Notice to End Tenancy for Landlord’s Use of Property dated September 28, 2018 (the “Notice”).

The Tenant did not appear at the hearing. The Landlord did appear with M.P. to assist her. The Landlord confirmed the Tenant is still living at the rental unit and that she was seeking an Order of Possession based on the Notice.

I waited 10 minutes, until 11:10 a.m., to allow the Tenant to participate in this hearing scheduled for 11:00 a.m. The Tenant did not call into the hearing. I proceeded with the hearing in the absence of the Tenant.

I explained the hearing process to the Landlord and M.P. who did not have questions when asked. The Landlord and M.P. were given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. The Landlord and M.P. provided affirmed testimony.

I have considered the Notice and written tenancy agreement submitted as evidence. I have also considered the oral testimony of the Landlord and M.P. I have not considered the remaining evidence submitted by the Tenant as she failed to appear and present her evidence as required by rule 7.4 of the Rules of Procedure (the “Rules”). I will only refer to the evidence I find relevant in this decision.

### Issue to be Decided

1. Should the Landlord be issued an Order of Possession under section 55(1) of the *Act*?

### Background and Evidence

The Landlord confirmed the written tenancy agreement submitted as evidence is accurate. It is between the Landlord and Tenant in relation to the rental unit. The Landlord confirmed the tenancy started September 1, 2014 and was a fixed term tenancy ending February 1, 2015. The Landlord confirmed the tenancy then became a month-to-month tenancy. Rent is \$500.00 per month due on the first day of each month. The agreement is signed by the Landlord and Tenant.

The Notice is addressed to the Tenant and relates to the rental unit. It is signed and dated by the Landlord. It has an effective date of December 1, 2018. The grounds for the Notice are that the rental unit will be occupied by the Landlord or the Landlord's close family member.

M.P. testified that she and the Landlord served all three pages of the Notice on the Tenant personally on September 28, 2018.

The Landlord testified that she is going to move into the rental unit. She said she cannot walk up stairs and that her current residence has stairs whereas the rental unit does not have stairs. She referred to a letter from a doctor in this regard submitted as evidence.

The Landlord testified that the Tenant paid rent for October but did not pay rent for November. The Landlord sought an Order of Possession for the effective date of the Notice, December 1, 2018.

### Analysis

Rule 7.3 of the Rules states that an arbitrator can dismiss an application for dispute resolution without leave to re-apply if a party fails to attend the hearing.

Here, the Tenant failed to attend the hearing and provide a basis for, or evidence regarding, her dispute of the Notice. In the absence of evidence from the Tenant

regarding the basis for her dispute, the Application is dismissed without leave to re-apply.

Section 55(1) of the *Residential Tenancy Act* (the “*Act*”) requires an arbitrator to issue an Order of Possession if a tenant applies to dispute a notice to end tenancy, the application is dismissed and the notice complies with section 52 of the *Act*.

Section 52 of the *Act* outlines the form and content required for a notice to end tenancy issued under the *Act*.

I have reviewed the Notice and find it complies with section 52 of the *Act* in form and content.

I have dismissed the Application and found the Notice complies with section 52 of the *Act*. Therefore, pursuant to section 55(1) of the *Act*, I issue the Landlord an Order of Possession for the rental unit. The Order of Possession is effective at 1:00 p.m. on December 1, 2018.

### Conclusion

The Application is dismissed without leave to re-apply.

The Landlord is granted an Order of Possession pursuant to section 55(1) of the *Act*. The Order is effective at 1:00 p.m. on December 1, 2018. The Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 15, 2018

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Residential Tenancy Branch