



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **Landlords:** OPL-4M  
**Tenants:** OLC, LRE

### Introduction

This hearing dealt with an application by both parties pursuant to the *Residential Tenancy Act* ("Act").

The landlord sought:

- an Order of Possession based on the landlord's Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit (the Four Month Notice) pursuant to sections 49 and 55.

The tenants sought:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70.

The tenants did not attend this hearing, although I waited until 9:41 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m.

The landlord's agent (the landlord) attended the hearing and was given a full opportunity to be heard, to present their sworn testimony and to make submissions.

Rules 7.1 and 7.3 of the Rules of Procedure provides as follows:

**Commencement of the hearing** - The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

The landlord gave undisputed affirmed testimony and written evidence that they served Tenant B.W. with the Landlord's Application for Dispute Resolution (Landlord's Application) and evidentiary package on January 12, 2019. In accordance with sections 88 and 89 of the *Act*, I find that Tenant B.W. was duly served with these documents.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the Four Month Notice?

Are the tenants entitled to an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement?

Are the tenants entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit?

Background and Evidence

The tenant provided written evidence that this tenancy commenced on July 01, 2017, with a current monthly rent of \$2,100.00, due on the first day of each month.

The landlord also submitted a signed copy of the landlord's August 29, 2018, Four Month Notice into evidence. In the Four Month Notice, requiring the tenant to end this tenancy by December 31, 2018, the landlord cited the following reason to end the tenancy:

*Demolish the rental unit*

The landlord has indicated that they have obtained all permits and approvals required by law to do this work.

In addition to the above items, the landlord also provided an affidavit to confirm personal service of the Four Month Notice to Tenant B.W. on August 31, 2018, and a copy of the permit for demolition.

The landlord gave undisputed affirmed testimony that the Four Month Notice was personally served to the tenants and that the tenants have not disputed the Four Month Notice. The landlord confirmed that the tenant is still in the rental unit and that the landlord requires an Order of Possession.

Analysis

**In the absence of any evidence or submissions from the tenants, I order the Tenants' Application for Dispute Resolution dismissed, without liberty to reapply.**

Section 49 (6)(a) of the *Act* allows a landlord to end a tenancy if the landlord has all necessary permits and approvals required by law, and intends in good faith, to demolish

the rental unit. Section 49 (8)(b) of the *Act* provides that upon receipt of a Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit the tenant may, within 30 days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

Based on the evidence and undisputed testimony of the landlord, I find that the tenants are duly served with the Four Month Notice on August 31, 2018, pursuant to section 88 of the *Act*.

Having reviewed the evidence and testimony, I find that the tenants did not make an application pursuant to section 49 (8) (b) of the *Act* within 30 days of receiving the Four Month Notice. In accordance with section 49 (9) of the *Act*, due to the failure of the tenants to take this action within 30 days, I find that the tenants are conclusively presumed to have accepted that the tenancy ended on December 31, 2018, the effective date on the Four Month Notice.

In this case, the tenants and anyone on the premises were required to vacate the premises by December 31, 2018. As this has not occurred, I find that the landlord is entitled to a two (2) day Order of Possession.

#### Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) or anyone on the premises 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: February 14, 2019

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Residential Tenancy Branch