



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, OPL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for Landlord's Use of Property, pursuant to sections 49 and 55; and
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord. The tenant did not submit any documentation for this hearing. The landlord was represented by her son who acted as agent on her behalf.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to the recovery of the filing fee from the tenant for this application?

### Background and Evidence

The landlords' agent gave the following testimony. The agent testified that the landlord purchased the home two years ago and that the tenant was already residing in the unit. The agent testified that the monthly rent is \$830.00 and due on the first of the month and is unsure if there was ever a security deposit paid. The agent testified that the landlords' son will be moving into the rental unit to be closer to his family. The agent testified that on February 1, 2019 the landlord served the tenant a Two Month Notice to End Tenancy for Landlords Use of Property for the following reason:

- *The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.*

The agent testified that the landlord requests an order of possession.

The tenant gave the following testimony. The tenant testified she's not going to move as she has very limited income. The tenant testified that she suffers from mental depression and has a child with autism and it would be very difficult for her to move out.

### Analysis

When a landlord issues a notice to end tenancy, they bear the responsibility in providing sufficient evidence to support the issuance of that notice. The tenant did not file an application to dispute the notice nor did she dispute that the landlords' son would be moving in. The tenant advised that due to her personal circumstances she could not and will not move. Based on the above, I find that the agent has provided sufficient evidence on a balance of probabilities that the landlords son will be moving in, accordingly; I find that the landlord is entitled to an order of possession pursuant to section 55 of the Act. The tenancy is terminated.

Although the landlord noted that the effective date of the notice is April 1, 2019, that is incorrect and the notice "auto corrects" pursuant to section 53(2) of the Act to April 30, 2019.

The landlord is also entitled to the recovery of the \$100.00 filing fee. The landlord is granted a monetary order in that amount.

### Conclusion

The landlord is granted an order of possession and a monetary order of \$100.00.

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: April 12, 2019

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Residential Tenancy Branch