



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

OPL, FF

### Introduction

This matter dealt with an application by the Landlord to end a tenancy, for an Order of Possession and to recover the filing fee.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on May 10, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant’s absence.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started in January 2017 as a 1 year fixed term tenancy and then continued on a month to month basis. Rent is \$2,000.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$1,000.00 at the start of the tenancy.

The Landlord said she issued a 2 Month Notice to End Tenancy for Landlord’s Use of the Property dated March 4, 2019 by posting it on the door of the Tenant’s rental unit. The Notice to End Tenancy has an effective vacancy date of April 2, 2019. The Landlord said the Tenant has not paid any rent since January 2019. As well the Landlord said the reasons on the 2 Month Notice to End Tenancy are the Tenant has been repeatedly late with the rent and the Landlord is moving into the rental unit as soon as the Tenant vacates the unit. The Landlord requested an Order of Possession for as soon as possible.

### Analysis

Section 49 (8) of the Act states that **within 15 days of receiving** a 2 Month Notice to End Tenancy for Landlord’s Use of the Property, a Tenant may apply for dispute resolution. If the Tenant fails to do this, then under section 49(9) of the Act, they are conclusively presumed to

have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was posted on the door, or on March 7, 2019. Consequently, the Tenant would have had to apply to dispute the Notice by March 22, 2019.

I find that the Tenant has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that as the Landlord was successful in this matter she is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenant. I order the Landlord to retain \$100.00 from the Tenant's security deposit as full payment of the filing fee for this proceeding.

### Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in 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: June 17, 2019

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Residential Tenancy Branch