



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPL-4M, FFL

### Introduction

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

- an Order of Possession for landlord's use of property, pursuant to section 55;
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 10 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the broker and partner for the landlord company named in this application and that she had permission to represent it at this hearing.

The landlord confirmed that she served both tenants with two copies of the landlord's application for dispute resolution hearing package on November 20, 2019, both by way of registered mail to the rental unit where the tenants are residing. The landlord provided two Canada Post receipts and confirmed both tracking numbers verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that both tenants were deemed served with the landlord's application on November 25, 2019, five days after their registered mailings.

The landlord confirmed that both tenants were served with the landlord's 4 Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit, dated June 27, 2019 ("4 Month Notice"), on the same date by way of posting to the tenants' rental unit door. The landlord provided a signed, witnessed proof of service to confirm same. In accordance with sections 88 and 90 of the *Act*, I find that both tenants were

deemed served with the landlord's 4 Month Notice on June 30, 2019, three days after its posting.

### Issues to be Decided

Is the landlord entitled to an Order of Possession for landlord's use of property?

Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on September 1, 2016. Monthly rent in the amount of \$800.00 is payable on the first day of each month. A security deposit of \$400.00 was paid by the tenants and the landlord continues to retain this deposit. The tenants continue to reside in the rental unit.

The landlord confirmed that the 4 Month Notice, which has an effective move-out date of October 31, 2019, was issued for the following reason:

- ...*demolish the rental unit.*

The landlord testified that she issued the 4 Month Notice to the tenants because the landlord wants to demolish the unit. The landlord provided a copy of the City building permit for demolition, which was issued on May 28, 2019. The landlord explained that the permit indicates only one main address, but the description includes "single family dwelling and 5 duplex units." She stated that most people had vacated the 11 total properties, with the exception of a "few squatters," and the properties had been boarded up. The landlord claimed that the tenants did not dispute the notice, nor did they move out.

### Analysis

Subsection 49(6)(a) of the *Act* sets out that a landlord may end a tenancy in respect of a rental unit where the landlord, in good faith, has all the necessary permits and approvals required by law to demolish the rental unit.

Based on a balance of probabilities and for the reasons outlined below, I find that the landlord has met its onus of proof to show that the 4 Month Notice was issued in good faith to demolish the rental unit.

I find that the landlord intends to demolish the rental unit and has all the necessary permits and approvals required by law. The landlord provided a copy of a valid building permit for the rental unit, listing the main address, with a description that indicates that the single family dwelling and 5 duplex units will be demolished. The landlord indicated that the tenants' rental unit is a duplex unit, waiting to be demolished, as the other units have been vacated and boarded up. I accept that the building permit is to demolish the rental unit even though the address is not included on the permit, since only one main address was used. The landlord obtained this permit on May 28, 2019, before the 4 Month Notice was issued to the tenants on June 27, 2019.

The tenants have not made an application pursuant to section 49(8)(b) of the *Act*, within thirty days of being deemed to have received the 4 Month Notice. In accordance with section 49(9) of the *Act*, the failure of the tenants to take this action within thirty days led to the end of this tenancy on October 31, 2019, the effective date on the 4 Month Notice. In this case, this required the tenants and anyone on the premises to vacate the premises by October 31, 2019.

As this has not occurred, I find that the landlord is entitled to an **order of possession effective two (2) days after service on the tenants**, pursuant to section 55 of the *Act*. The effective date of the 4 Month Notice has long passed. I find that the landlord's 4 Month Notice complies with section 52 of the *Act*.

As the landlord was successful in this application, I find that it is entitled to recover the \$100.00 filing fee from the tenants.

### Conclusion

I grant an Order of Possession to the landlord **effective two (2) days after service on the tenants**. Should the tenants 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.

I order the landlord to retain \$100.00 from the tenants' security deposit of \$400.00, in full satisfaction of the monetary award for the filing fee.

The remainder of the tenants' security deposit of \$300.00 will be dealt with at the end of this tenancy in accordance with section 38 of the *Act*.

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: January 10, 2020

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Residential Tenancy Branch