



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for an Order of Possession for Landlord's use, pursuant to sections 49 and 55(2)(b) of the *Act*.

Although I left the teleconference hearing connection open until 9:41 A.M. to enable the tenants to call into this teleconference hearing scheduled for 9:30 A.M., the tenants did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenants were served with the Notice of Hearing and evidence (the Materials) in person on December 19, 2019, at 3:00 P.M in accordance with section 89(2)(a) of the *Act*.

### Preliminary Issue – Amendment of Claim

The landlord amended his application to change his residential address (the updated address is reproduced on the cover of this decision). Section 64(3)(c) of the *Act* allows me to amend the application to update the address of the parties, which I have done.

### Issue to be Decided

Is the landlord entitled to an order of possession for Landlord's use?

### Background and Evidence

While I have considered the documentary evidence and the testimony of the landlord, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below.

The tenancy agreement submitted into evidence indicates the periodic tenancy started on December 01, 2014. Monthly rent is \$900.00, due on the first day of the month. No security deposit was collected.

The landlord testified the Two Month Notice to End Tenancy for Landlord's Use (the Notice) was served by leaving it in the mail box of the tenants' rental unit on October 23, 2019. The landlord provided a witnessed proof of service form (RTB-34) in evidence.

The Notice was entered into evidence. The notice indicates the rental unit will be occupied by the landlord's close family member. The landlord testified his son will live in the rental unit. The effective date of the Notice is December 31, 2019. The tenants did not dispute the Notice and have not vacated the rental unit.

The landlord also provided in evidence a December 04, 2019 rent receipt for \$750.00, the receipt is marked with 'for use and occupancy only'.

### Analysis

I have reviewed all the evidence and deem the tenants received the Notice on October 26, 2019 in accordance with sections 88 (f) and 90(d) of the Act. I find the form and content of the Notice is valid pursuant to section 52 of the Act.

Based on the landlord's undisputed testimony I find that the tenants did not file an application to dispute the Notice within 15 days of receiving it, or at all. Pursuant to section 49(9)(a) the tenants are conclusively presumed to have accepted the end of the tenancy on December 31, 2019 and must vacate the rental unit. As this has not occurred, I find that pursuant to section 55(2)(b) of the Act, the landlord is entitled to an order of possession effective two days after service.

### Conclusion

I find the tenancy ended on December 31, 2019. I grant an Order of Possession to the landlord effective **two days after service of this order** on the tenants. Should the

tenants 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 04, 2020

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Residential Tenancy Branch