



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL-4M, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- Seeking an Order of Possession for the rental unit based on an uncontested Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of a Rental Unit (the “Four Month Notice”); and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the owner (Landlord) and the Agent for the Landlord. No one appeared on behalf of the Tenant. The Landlord and Agent were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As no one appeared on behalf of the Tenant, I confirmed service of these documents as explained below.

The Agent testified that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, Notice of Hearing, and the Landlord’s documentary evidence, was sent to the Tenant by email on May 7, 2020, and provided me with a copy of the email. The Agent stated that although the Tenant did not reply specifically to the email, they regularly use email to communicate with the Tenant regarding tenancy matters and that the Tenant has had communications with them at that email address as recently as May 29, 2020. The Agent submitted a copy of the recent email chain for my consideration. As a result, the Agent stated that the Tenant can reasonably be expected to have received the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, Notice of Hearing, and the Landlord’s documentary evidence.

Based on the above, and pursuant to the Director's Order regarding email service dated March 30, 2020, and sections 71 (2)(b) and 71 (2)(c) of the *Act*, I find that the Tenant was deemed served on May 10, 2020, three days after the email was sent.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be emailed to them at the email address provided in the Application.

#### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession pursuant to section 55 of the *Act*?

Is the Landlord entitled to recovery of the filing fee pursuant to section 72 of the *Act*?

#### Background and Evidence

The Agent stated that the Four Month Notice was placed in the Tenant's mailbox in the presence of a Witness on December 13, 2019, and submitted a witnessed and signed proof of service document in support of this testimony.

The Four Month Notice in the documentary evidence before me is signed and dated December 13, 2019, has an effective vacancy date of April 30, 2020, includes the address for the rental unit and states that the notice has been given as the Landlord intends to demolish the rental unit and has all of the permits and approvals required by law to do so.

The Agent and Landlord stated that to their knowledge, the Tenant has not filed an Application with the Residential Tenancy Branch seeking to dispute the Four Month Notice and as a result, they sought an Order of Possession for the rental unit. The Agent stated that rent for use and occupancy of the rental unit has been paid for June, 2020, and therefore an Order of Possession for June 30, 2020, would be acceptable.

The Agent and Landlord also sought authorisation to withhold \$100.00 from the security deposit for recovery of the filing fee.

### Analysis

Based on the uncontested and affirmed testimony of the Agent and the documentary evidence before me, I am satisfied that the Four Month Notice was placed in the Tenant's mailbox on December 13, 2020, and I find that it was therefore deemed served on December 16, 2020, in accordance with section 90 (d) of the *Act*.

As there is no evidence before me that the Tenant disputed the Four Month Notice within the required timeframe set out under section 49 (8)(b) of the *Act*, I therefore find that the Tenant is conclusively presumed to have accepted that the tenancy is ending in accordance with the Four Month Notice pursuant to section 49 (9) of the *Act*.

As the Four Month Notice is signed and dated, has an effective vacancy date, states the address for the rental unit and the grounds for ending the tenancy, and is in the approved form, I find that it complies with section 52 of the *Act*. As a result, I grant the Landlord an Order of Possession for the rental unit effective 1:00 P.M. on June 30, 2020, pursuant to section 55 (2)(b) of the *Act*.

As the Landlord was successful in their Application, I grant them recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. As per their request, I grant them authorization to withhold this amount from the security deposit for the rental unit.

### Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the Landlord effective **1:00 P.M. on June 30, 2020, after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is authorized to withhold \$100.00 from the security deposit for the rental unit in recovery of the filing fee.

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 9, 2020

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Residential Tenancy Branch