



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Code: OPC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act, (the “Act”), for an order of possession, based on a Two Month Notice to End Tenancy for Landlord’s Use of Property (the “Notice”), issued on March 24, 2020 and an order to recover the cost of filing the application from the tenant.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail on June 1, 2020, a Canada post tracking number was provided as evidence of service. The Canada post track history shows that on June 5, 2020, the tenant refused to accept service. I find the tenant was served on June 5, 2020. A party cannot refuse service under the Act. Nor can they apply for review consideration that they were unable to attend the hearing when they chose to refused service.

### Issue to be Decided

Is the landlord entitled to an order of possession?

### Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with the Notice on March 24, 2020, by personal service, which was witnesses by the landlord’s real estate agent. I find the tenant was duly serviced in accordance with the Act.

The Notice explains the tenant had 15 days to dispute the Notice. The Notice further explains if the Notice is not disputed within the 15 days that the tenant is presumed to

accept the Notice and must move out of the rental unit by the date specified in the Notice, which was June 2, 2020.

The landlord stated that the tenant did not pay rent for June 2020, which was their compensation under the Act.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case the Notice was issued prior to the **Ministerial Order M089** being issued on March 30, 2020. Therefore, I find the above order has no impact on proceeding with today's hearing as the Notice was issued on March 24, 2020.

I accept the evidence of the landlord that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 49 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord that the tenant was served with the Notice in compliance with the service provisions under section 88 of the Act, which was personally served and witnessed on March 24, 2020.

I am satisfied based on the landlord's evidence that the landlord has met the statutory requirements under the Act to end a tenancy.

The tenant did not apply to dispute the Notice and therefore conclusively presumed under section 49(9) of the Act to have accepted that the tenancy ended on the effective date of the Notice, which was June 2, 2020. I find the tenancy legally ended on June 2, 2020 and the tenant is now overholding the premise as an occupant.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I find that the landlord has established a total monetary claim of \$100.00 to recover the filing fee from the tenant for this application. I order that the landlord retain the amount of \$100.00 from the tenant's security deposit in full satisfaction of the claim.

Conclusion

The tenant failed to dispute the Notice. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession and may keep a portion of the security deposit in full satisfaction of the claim.

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 22, 2020

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Residential Tenancy Branch