



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPL, FFL

### Introduction

This hearing was scheduled to convene at 9:30 a.m. this date by way of conference call concerning an application made by the landlords seeking an Order of Possession for landlords' use of property and to recover the filing fee from the tenants for the cost of the application.

One of the landlords attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord testified that the tenants were served with the application and notice of this hearing (the Hearing Package) by registered mail on July 6, 2020 and has provided Canada Post receipt with a tracking number bearing that date. The landlord has also provided another Canada Post receipt with a tracking number dated July 7, 2020 which the landlord testified was for the evidentiary material filed by the landlords. I am satisfied that the tenants have been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

Should the landlords be granted an Order of Possession with respect to a Two Month Notice to End Tenancy for Landlord's Use of Property?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on May 1, 2018 and reverted to a month-to-month tenancy after April 30, 2020, and the tenants still reside in the rental unit. Rent in the amount of \$1,500.00 is payable on the 1<sup>st</sup> day of each month, and there are no rental arrears, although the landlord gave the tenants a break for this month's rent. At the outset of the tenancy the landlords collected a security deposit

from the tenants in the amount of \$750.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a single family dwelling and a copy of the tenancy agreement has been provided as evidence for this hearing.

On February 26, 2020 the landlord served the tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property by placing it in the tenants' mailbox. A copy has been provided for this hearing and it is dated February 24, 2020 and contains an effective date of vacancy of April 30, 2020. The reason for issuing it states: "The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child, or the parent or child of that individual's spouse)." The landlord testified that he and his wife will be occupying the rental unit.

The landlords have not collected rent for the month of April, 2020 as compensation required by the *Residential Tenancy Act*. The landlord is aware of the further compensation required if the landlords fail to use the rental unit for the purpose contained in the Notice.

The tenants have not served the landlords with an Application for Dispute Resolution disputing the Notice, and the landlords seek an Order of Possession.

### Analysis

The *Residential Tenancy Act* specifies that once served with a Two Month Notice to End Tenancy for Landlord's Use of Property (the Notice), the tenant has 15 days to dispute it by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does not do so, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit in accordance with the Notice.

In this case, the landlord testified that the tenants have not served the landlords with an Application for Dispute Resolution and I have no such application before me. The tenants have not vacated the rental unit, and the effective date of vacancy contained in the Notice is April 30, 2020.

I have reviewed the Notice and I find that it is in the approved form and contains information required by the *Act*. Since the tenants have not disputed the Notice, I grant an Order of Possession in favour of the landlords. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenants.

I also order that the landlords retain \$100.00 of the security deposit held in trust as recovery of the filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlords effective on 2 days notice to the tenants.

I hereby order that the landlords retain \$100.00 of the security deposit held in trust as recovery of the filing fee for the cost of this application.

This order is final and binding and may be enforced.

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: July 28, 2020

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Residential Tenancy Branch