



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes CNL, OPL

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied for an order cancelling a notice to end tenancy - Section 49; and the Landlord applied for an order of possession - Section 55.

The Tenant did not attend the hearing to pursue their claim. I therefore dismiss their application. I accept the Landlord's evidence that the Tenant was served with the Landlord's application for dispute resolution, notice of hearing and evidence in person on March 25, 2022 in accordance with Section 89 of the Act. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions. The Landlord confirms that their first and last names were transposed in error in the Landlord's application and that they are correctly named as set out in the Tenant's application. The style of cause on this Decision has therefore been set out with the names of the Landlord in the correct order.

### Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The tenancy of a lower unit in a house, with the Landlord occupying the upper part of the house, started in September 2013. At the outset of the tenancy the Landlord collected \$325.00 as a security deposit. Rent of \$675.00 is payable on the first day of each month. On January 3, 2022 the Landlord served the Tenant with a two month notice to end tenancy for landlord's use dated January 2, 2022 (the "Notice"). The effective date of the Notice, automatically corrected, is March 31, 2022. The reason stated on the Notice is that the Landlord and the Landlord's spouse will occupy the unit. The Landlord confirms that they and their children who occupy the upper part of the house have the good faith intention of occupying the lower unit. The Tenant has not moved out of the unit. The Landlord seeks an order of possession for April 30, 2022.

### Analysis

Section 49(3) of the Act provides that a landlord who is an individual may end a tenancy in respect of a rental unit if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit. Section 49(1) of the Act defines a close family member as the individual's parent, spouse or child, or the parent or child of that individual's spouse. Based on the Landlord's undisputed evidence that they will occupy the unit I find that the Notice is valid for its stated reason. The Landlord is therefore entitled to the order of possession as sought by the Landlord.

### Conclusion

The Tenant's application is dismissed.

**I grant** an Order of Possession to the Landlord effective 1:00 pm. April 30, 2022. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 19, 2022

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Residential Tenancy Branch