



# Dispute Resolution Services

Page: 1

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 a tenancy. On January 31, 2022, the Landlord applied for an order of possession, having served the Tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property, dated December 15, 2021 (the Two Month Notice).

The hearing began on time and was attended by only the Landlord, who was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; she was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified she served the Notice of Dispute Resolution Proceeding (NDRP) and her evidence on the Tenants by registered mail on February 11, 2022, and submitted a receipt with tracking numbers. The tracking numbers are noted on the cover page of the decision. Based on the Landlord's affirmed undisputed testimony and her documentary evidence, I find she served the Tenants in accordance with section 89 of the Act, on February 11, 2022. In accordance with section 90 of the Act, I deem the documents received by the Tenants on February 16, 2022.

### Issue to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The Landlord provided the following particulars of the tenancy. It began October 7, 2018; rent is \$600.00, due on the first of the month; and the Tenants did not pay the security deposit of \$300.00.

The Landlord testified that the Tenants still occupy the rental unit.

The Landlord testified she served the Two Month Notice on the Tenants by registered mail on December 21, 2021, and submitted a receipt with a tracking number. The tracking number is noted on the cover page of the decision.

The Landlord submitted as evidence a copy of the Two Month Notice. The Notice is dated, gives the address of the rental unit, states an effective date, states the reason for ending the tenancy, and is in the approved form. The effective date on the Notice is March 1, 2022, and the Notice is not signed by the Landlord.

The Two Month Notice indicates the tenancy is ending because the Landlord or the Landlord's spouse will occupy the unit.

In the hearing, the Landlord confirmed the reason for the Two Month Notice and testified that she and her family intend to move into the rental unit. The Landlord testified that the Tenants were to have purchased the property, but the deal fell through. The Landlord testified she cannot afford to maintain her current residence as well as the rental property, so will be moving into the rental unit.

The Landlord testified that the Tenants did not dispute the Two Month Notice.

Though the Two Month Notice states that the Tenants must move out by March 1, 2022, the Landlord testified she is seeking an order of possession for July 31, 2022, so as to give the Tenants more time.

### Analysis

Based on the Landlord's affirmed undisputed testimony and having checked the tracking number, I find the Landlord served the Two Month Notice on the Tenants by registered mail on December 21, 2022, in accordance with section 88 of the Act. Pursuant to section 90 of the Act, I deem the Notice received by the Tenants on December 26, 2021.

Although the Landlord did not sign the Two Month Notice, I find the Landlord's name listed on the Two Month Notice sufficient for meeting the requirement of 52(a), which states the Notice must be signed and dated by the landlord. Section 68 of the Act allows an arbitrator to amend a notice as follows:

**Director's orders: notice to end tenancy**

**68** (1) If a notice to end a tenancy does not comply with section 52 [*form and content of notice to end tenancy*], the director may amend the notice if satisfied that

- (a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and
- (b) in the circumstances, it is reasonable to amend the notice.

Section 49(8)(a) of the Act provides that upon receipt of a Two Month Notice, the tenant may, within 15 days, dispute the Notice by filing an application for dispute resolution with the Residential Tenancy Branch.

I find that the Tenants did not file an application for dispute resolution within 15 days of December 26, 2021 the deadline under section 49(8)(a) of the Act. Accordingly, I find that the Tenants are conclusively presumed under section 49(9) to have accepted the end of the tenancy.

Therefore, in accordance with section 55 of the Act, I find that the Landlord is entitled to an order of possession.

Though the Landlord has requested an order of possession dated July 31, 2022, the Tenants are still entitled to end the tenancy sooner, as long as they give notice in accordance with section 44 or 50 of the Act, and pay rent in accordance with section 26 of the Act.

The rights and obligations of the Landlords and Tenants continue in accordance with the Act.

Conclusion

The Landlords' application is granted.

The Landlords are granted an order of possession which will be effective 1:00 p.m. on July 31, 2022. The order of possession must be served on the Tenants. The order of possession 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: May 03, 2022

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Residential Tenancy Branch