



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL, FF

### Introduction

The landlord applies for an order of possession pursuant to a two month Notice to End Tenancy dated January 31, 2018 and served on the tenant February 9, 2018.

The tenant has not applied to cancel the Notice. He is in the process of moving but says he is having difficulty finding replacement housing.

### Issue(s) to be Decided

The issue is whether or not this tenancy has ended and the landlord is entitled to an order of possession.

### Background and Evidence

The facts stated in the introduction were not disputed. The law set by section 49 of the *Residential Tenancy Act* (the “*Act*”) was described to the parties. The tenant could offer no fact or reason why it would not apply to this dispute.

### Analysis

The two month Notice is in the approved form. Section 49 of the *Act* states that once such a Notice is served and if the tenant does not dispute the Notice by making an application to cancel it, then the tenant is conclusively presumed to have accepted the ending of the tenancy.

In this case the effective end of tenancy date in the two month Notice was March 31, but because the tenant was not served with the Notice until February, that date

automatically corrects itself (s. 53 of the *Act*) to the earliest lawful date. That would be April 30.

This tenancy ended by operation of law on April 30, 2018. The tenant is still occupying the room and common area he was rented and so the landlord is entitled to an order of possession.

### Conclusion

The application is allowed. The landlord will have an immediate order of possession and a monetary order for the \$100.00 filing fee.

I urge the parties to work out an agreeable method to assist the tenant in transitioning to alternate accommodation.

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 26, 2018

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Residential Tenancy Branch