



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Delaney Properties Ltd. and [tenant  
name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for landlord's use of property, pursuant to section 49.

The tenant, the owner of the subject rental property and the landlord's agent attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agree that the landlord's agent personally served the tenant with the landlord's application for dispute resolution on July 7, 2020. I find that the tenant was served in accordance with section 89 of the *Act*.

### Issues to be Decided

1. Is the landlord entitled to an Order of Possession for landlord's use of property, pursuant to section 49 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenant's and landlord's claims and my findings are set out below.

Both parties agreed to the following facts. This tenancy began on August 1, 2015 and is currently ongoing. Monthly rent in the amount of \$650.00 is payable on the first day of each month. A security deposit of \$300.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

Both parties agree that the tenant was personally served with the Two Month Notice to End Tenancy for Landlord's Use of Property (the "Two Month Notice") on January 29, 2020. The Two Month Notice was entered into evidence and has an effective date of March 31, 2020.

The tenant testified that she did not file an application with the Residential Tenancy Branch to Dispute the Two Month Notice.

The owner of the subject rental property testified that this application was not made earlier due to the ban on evictions arising out of the pandemic.

The tenant testified that she didn't move out because she believed the landlord only wanted to evict her because of the actions of her boyfriend.

The owner of the subject rental property testified that he purchased the property so that he could move into it as he is relocating to the city in question.

### Analysis

Based on the testimony of both parties and the evidence provided, I find that service of the Two Month Notice was effected on the tenant on January 29, 2020, in accordance with section 88 of the *Act*. On review of the Two Month Notice I find that it meets the form and content requirements of section 52 of the *Act*.

Section 49(5) and section 49(6) state that if a tenant who has received a Two Month Notice does not make an application for dispute resolution within 15 days after the date the tenant receives the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

In this case, the tenant did not dispute the Two Month Notice within 15 days of receiving it. I find that, pursuant to section 49 of the *Act*, the tenant's failure to file to dispute the

Two Month Notice within 15 days of receiving the Two Month Notice led to the end of this tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by March 31, 2020. As that has not occurred, I find that the landlord is entitled to a Two-Day Order of Possession.

The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

### Conclusion

Pursuant to section 55 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order 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: July 30, 2020

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Residential Tenancy Branch