



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### Dispute codes OPL, O

#### Introduction

This was the hearing of an application by the landlord for an order for possession. The matter was heard on December 30, 2010 and was reconvened for a further hearing on January 10, 2011 for the reasons set out in my preliminary decision dated December 31, 2010. The landlord and his assistant attended the reconvened hearing as did the tenant. I also heard from the tenant's witness during the hearing.

#### Issue

Is the landlord entitled to an order for possession of the rental property?

The landlord testified that he has kept the tenant informed of his plans to sell the rental property and made the tenant aware as early as December, 2009 that he would likely have to move out of the rental property.

The landlord submitted as evidence a copy of a Mutual Agreement to End a Tenancy in the form provided by the *Residential Tenancy Act*. The landlord testified that he and his assistant, Ms. H.E. attended at the rental property on November 23, 2010. The landlord testified that he presented the tenant with copies of a mutual agreement to end a Tenancy. He said that the tenant signed the documents and thereby agreed to move out of the rental property by January 31, 2011. Ms. H.E. who was also present at the rental property with the landlord on November 23, 2010 confirmed that the tenant signed the Mutual Agreement in duplicate and that he was given a signed copy at the meeting on November 23<sup>rd</sup>. She described the process of signing which involved

holding the document for the tenant to sign because he does not have use of both hands. The landlord and Ms. H.E. testified that the signature on the copy of the Mutual Agreement is the tenant's signature placed on the document by the tenant on November 23, 2010. They testified that the copy submitted as evidence is an accurate reproduction of the original signed Agreement.

The tenant's testimony about signing the agreement was contradictory. At the hearing on December 30, 2010 the tenant first testified that he signed the Mutual Agreement to End a Tenancy, but his signature was invalid because it was conditional upon the landlord making a request to the new owners to allow the tenant to continue as the new owner's tenant. Later during the December 30, hearing when I said that I did not have a copy of the Mutual Agreement the tenant denied that he actually signed the document. At the reconvened hearing on January 10, 2010 the tenant again denied signing the Mutual Agreement and he suggested that if his signature appeared to be on the document it had been put there by the landlord and must be a forgery.

The tenant's witness, who is his care-giver testified that she was present at the rental unit on November 23, 2010 when the landlord and his assistant attended. She testified that she overheard a discussion about the mutual agreement to end tenancy, but she did not observe whether or not the tenant signed the document.

## Analysis and Conclusion

I accept and prefer the testimony of the landlord to that of the tenant and I find that the tenant signed the Mutual Agreement to End a Tenancy, a copy of which was submitted as evidence. I make this finding because the tenant's equivocal testimony about whether or not he signed the document causes me to question his credibility. I find it highly unlikely that the landlord and his assistant conspired to place a forged signature

on the agreement and present it as genuine evidence. The evidence showed that the landlord has obtained the tenant's informal agreement to move on several occasions, but the moving dates have come and gone without any attempt by the tenant to comply. I find that the landlord requested the tenant to sign the mutual agreement on November 23, 2010 because of this past experience and I find that the tenant did sign the agreement. The landlord enquired of the intended new owners, as the tenant requested him to do, whether or not the new owners might be prepared to continue his tenancy, but there was nothing conditional about the Mutual Agreement to End the Tenancy; it requires the tenant to move out of the rental unit by 6:00 P.M. on January 31, 2011. The new owners have stated that they have no intention to rent the property; they intend to use the property for themselves.

I find that the landlord is entitled to an order for possession effective January 31, 2011 after service on the tenant. This order may be registered in the Supreme Court and enforced as an order of that court.

Dated: January 10, 2011.

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