



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OPB FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for breach of a fixed term tenancy agreement and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord to each Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on March 24, 2011. Mail receipt numbers were provided in the Landlord's verbal testimony. The Tenants are deemed to be served the hearing documents on March 29, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

### Issue(s) to be Decided

1. Have the Tenants breached the *Residential Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain an Order of Possession as a result of that breach?

### Background and Evidence

The Landlord testified that the parties entered into a written fixed term tenancy agreement effective February 01, 2011 which is set to expire on March 31, 2011, at which time the Tenants are required to vacate the rental unit. Rent is payable on the first of each month in the amount of \$575.00 and on January 30, 2011 the Tenants paid \$237.50 as the security deposit.

The Landlord confirmed the Tenants did not vacate the rental unit in accordance with the tenancy agreement and he is concerned they are causing damage to the property.

### Analysis

Section 55 (2)(c) of the Act provides that a landlord may request an order of possession of a rental unit if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the fixed term.

In this case the evidence, which included a copy of the fixed term tenancy agreement, proves the tenancy was for a fixed term which ended on March 31, 2011 at which point the tenants were required to vacate the property.

Based on the foregoing, the relevant written submissions, and on a balance of probabilities, I find there to be sufficient evidence to support the Landlord's request for an Order of Possession.

The Landlord has been successful with his application; therefore I award recovery of the **\$50.00** filing fee.

### Conclusion

The Landlord's decision will be accompanied by an Order of Possession effective 2 days upon service to the Tenants. This Order must be served to the Tenants and may be filed in Supreme Court and enforced as an Order of that Court.

The Landlord may withhold the one time award of **\$50.00** from the Tenants' security deposit currently held in trust by the Landlord.

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: April 13, 2011.

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Residential Tenancy Branch