



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR

### Introduction

This hearing was reconvened as a result of the Tenants' successful Request for a Review Hearing to deal with the Direct Request Application for Dispute Resolution by the Landlord, who had been granted an order of possession against the Tenants, dated April 14, 2011, by the Residential Tenancy Branch through that Application.

The Tenants filed an application for a Review Hearing, which alleged that the Decision of April 14, 2011, was based upon new and relevant evidence that was not available at the time of the original hearing and upon fraud.

In a Decision of April 26, 2011, the Dispute Resolution Officer (DRO) granted the Tenants' application and suspended the Decision and Order of April 14, 2011, to allow a participatory hearing on the original Landlord's Application. The Decision of the DRO determined that the Tenants' application "may have been different if the tenants' submission had been considered as part of the proceeding."

Although served with the Notice of Hearing by registered mail on May 7, 2011, the Landlord did not appear. The Tenant provided a tracking number for the registered mail, testified that the mail was sent to the address at which the Landlord conducted business as a landlord, and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the Landlord's absence.

The female Tenant appeared and stated that the Tenants had vacated the rental unit at the end of April and no longer wanted to pursue the matter of overturning the Order of Possession.

### Issue(s) to be Decided

Did the Landlord provide sufficient evidence to determine if the 10 Day Notice to End Tenancy was effective?

Have the Tenants breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the Landlord to an Order of Possession?

Analysis

Based upon the Tenant's affirmation that the Tenants had vacated the rental unit and no longer wanted to go forward with contesting the Order of Possession, I find that the Decision and Order of Possession issued on April 14, 2011, are **reinstated and in full force and effect**.

The Tenant requested recovery of the filing fee; however as the Tenant withdrew her request for a review hearing, I am not able to make a determination of the merits of her claim.

I therefore decline to award the Tenants the recovery of the filing fee.

Conclusion

The Decision and Order of Possession issued on April 14, 2011, are reinstated and in full force and effect.

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 03, 2011.

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Residential Tenancy Branch