



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, FF, O

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

The Landlord applied for an Order of Possession pursuant to a Notice to end Tenancy however during the intervening time between the original application and this Hearing, the Tenant signed a mutual agreement to end the tenancy. As the Tenants are aware that the reason for the Landlord’s claim to an Order is now based on the mutual agreement, the application is amended accordingly.

### Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

### Background and Evidence

The tenancy began approximately 10 years ago. Rent in the amount of \$1,100.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$550.00. On August 5, 2011, the Parties entered into a Mutual Agreement to End a Tenancy wherein the Tenants agreed to vacate the unit by 5 p.m. on September 1, 2011. The Tenant

states that the unit has not been vacated and that although they wish to vacate the unit, they have been unable to find alternate accommodation. The Tenant states that she is seriously ill and that it has been difficult to carry out the work necessary to find a unit and move.

The Landlord states that while he understands the challenges of the Tenants, he has been giving the Tenants time since June 2011 and has entered into more than one agreement with the Tenants to end the tenancy due to his understanding of the Tenants' problems but that he can no longer wait for possession as he has sold the unit. The Landlord states that he also provided the Tenants with a free month of rent in the past as inducement for the agreements to end the tenancy. The Tenant does not dispute the Landlord's evidence in relation to the past agreements and inducement.

### Analysis

Section 44 of the Act provides that a tenancy ends where the landlord and tenant agree in writing that the tenancy is ended. Further, Section 55 of the Act provides that a landlord may request an order of possession where the landlord and tenant have agreed in writing that the tenancy is ended. Given the agreement to end the tenancy signed by both parties and the Landlord's request for an order of possession, I find that the Landlord is entitled to an order of Possession. As the Landlord's application had merit, I find that the Landlord is also entitled to recovery of the filing fee in the amount of \$50.00 and the Landlord may retain this amount from the security deposit.

As no evidence was provided by the Landlord in relation to the claimed marked as Other, I make no finding in this regard.

### Conclusion

**I grant** an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I Order the Landlord to retain the amount of \$50.00 from the security deposit.

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: September 12, 2011.

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Residential Tenancy Branch