



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking to end the tenancy early and obtain an order of possession.

Both parties appeared and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that during the hearing the female Tenant was cautioned regarding her loud outbursts, and that the Tenants left the hearing before it concluded.

### Issue(s) to be Decided

When is the tenancy going to end?

### Background and Evidence

It is clear from the written submissions of both parties and from their brief oral testimony during the hearing that there is a great deal of acrimony between the Landlord and Tenants in this tenancy.

Nevertheless, it was unnecessary in this matter to review all the allegations made by the parties against each other. This is because both parties submitted in evidence a copy of a Notice to End Tenancy given by the Tenants to the Landlord on August 31, 2011, with an effective end date for the tenancy of September 30, 2011 (the "Notice").

The Tenants attempted to rescind this Notice on September 6, 2011. However, the Landlord does not agree to allow the Tenants to withdraw the Notice.

The female Tenant alleged she was mentally ill at the time they gave this Notice to the Landlord, however, I note the Notice has been signed by the male Tenant. The Tenants provided no medical evidence showing they both lacked legal capacity, at the same time, to end the tenancy.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the tenancy must end on September 30, 2011, due to the Notice given by the Tenants.

Guideline 11 to the Act explains how a notice to end tenancy may be withdrawn:

“A landlord or tenant cannot unilaterally withdraw a Notice to End Tenancy. With the consent of the party to whom it is given, but only with his or her consent, a Notice to End Tenancy may be withdrawn or abandoned prior to its effective date.”

[*Emphasis* added.]

In this instance, the Landlord did not consent to the Tenants withdrawing their Notice.

The Agents for the Landlord were satisfied and confirmed they agreed to the order of possession in this form.

I grant and issue an order of possession effective at **1:00 p.m. on September 30, 2011**, pursuant to sections 55(2)(a) and 62 of the Act.

### Conclusion

The tenancy is ending due to the Notice to End tenancy given by the Tenants on August 31, 2011. The Landlord is granted and issued an order of possession effective at **1:00 p.m. on September 30, 2011**.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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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