



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EMV Holdings Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, FF

### Introduction

This hearing was convened in response to an application filed by the tenant seeking an Order compelling the landlord to comply with the Act and recovery of the filing fee paid for this application.

Both parties appeared at the hearing of this matter and gave evidence under oath.

### Issue(s) to be Decided

Should the landlord be compelled to comply with the Act?

### Background and Evidence

This Tenancy Agreement submitted into evidence signed by the parties in October 2012, shows that this tenancy commenced on November 1, 2012 for a fixed term ending April 30, 2013. Rent was set at \$1,050.00 per month.

The undisputed evidence of the parties is that with respect to the end of the tenancy the parties first selected Box C indicating that the tenancy would continue as a month-to-month tenancy or another fixed term. They then crossed this off, initialled it and selected Box D which states:

At the end of this time the tenancy is ended and the tenant must vacate the rental unit.

Both parties initialled this choice where indicated.

The tenant says that while she agrees she signed the agreement, initialled the changes and the Box D selection she was told by the landlord that she would be offered another

fixed term at the end of this fixed term. The tenant says instead the landlord demanded she move out on April 30, 2013.

The landlords say they want the tenancy to end in accordance with the tenancy agreement. The landlords say they have written to the tenant to advise her that they will not be entering into a new tenancy agreement with her and that they expected the tenancy to end on April 30, 2013. The landlord says the tenant remains in the rental unit to date. The landlord says he does not wish to enter into another tenancy agreement with this tenant. The landlord seeks an Order of Possession.

### Analysis

The written tenancy agreement submitted in evidence and the undisputed evidence of the parties is that they entered into a fixed term tenancy agreement which ended on April 30, 2013. The undisputed evidence also shows that the parties selected to end the tenancy at the end of the fixed term as opposed to allowing it to revert to a month-to-month tenancy or another fixed term. The tenant now seeks to compel the landlord to offer her another fixed term however there is nothing in the Act that would allow me to compel a landlord to do this. It is clear the parties themselves chose otherwise. This tenancy therefore ended on April 30, 2013 and the tenant's claim in this regard is therefore dismissed.

As the tenant has been unsuccessful in her claim, her request to recover the filing fee is also dismissed.

The landlord has requested an Order of Possession. In cases where a Notice to End Tenancy has been served, an Application for Dispute Resolution filed by a tenant seeking to cancel the Notice and the tenant's application is dismissed the law allows me to grant an Order of Possession upon request at the hearing by the landlord. However, in this case a Notice to End Tenancy has not been issued. I am therefore unable to issue an Order of Possession.

Conclusion

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: May 14, 2013

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Residential Tenancy Branch



# Residential Tenancy Branch

RTB-136

## Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website ([www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)) has information about:

- How and when to enforce an order of possession:  
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:  
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:  
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:  
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:  
Fact Sheet RTB-100: *Review Consideration of a Decision or Order*  
**(Please Note: Legislated deadlines apply)**

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)