



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Penticton and District Society for Community Living  
and [tenant name suppressed to protect privacy]

## **DECISION**

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### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent; the tenant and his advocate.

The hearing was originally convened on September 17, 2013. The tenant's advocate sought an adjournment to prepare for the hearing as he had just been approached by the tenant for support. I granted a short adjournment and the hearing was reconvened on September 30, 2013.

During the reconvened hearing the landlord's agent identified that there had been previous hearings between these two parties. I searched the Residential Tenancy Branch database and determined that the landlord had applied for an order of possession based on the tenant's notice of his intent to end the tenancy that he signed on May 21, 2013. A hearing was conducted on August 1, 2013.

The decision from that hearing, dated August 1, 2013, dismissed the landlord's Application and did not grant the landlord leave to reapply.

As such I find the matters before me in this Application are *res judicata*. *Res judicata* is the doctrine that an issue has been definitively settled by a judicial decision. The three elements of this doctrine, according to Black's Law Dictionary, 7<sup>th</sup> Edition, are: an earlier decision has been made on the issue; a final judgement has been made; and the involvement of the same parties.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession based on the tenant's notice to end tenancy, pursuant to Sections 55 of the *Residential Tenancy Act (Act)*.

Conclusion

As per the above, I dismissed the landlord's Application without leave to reapply.

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 30, 2013

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Residential Tenancy Branch

