



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

MNDC, OPB

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for money owed or compensation for loss under the Act, and for an order of possession.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to monetary order for money owed or loss under the Act?

### Background and Evidence

The parties entered into a fixed term tenancy which began on November 16, 2014 and was to expire on May 16, 2015. At the end of the fixed term agreement the tenancy ends and the tenants must move out of the rental unit. Rent in the amount of \$1,500.00 was payable on the 16<sup>th</sup> of each month.

The landlord testified that the tenants have failed to vacate the rental unit as required by the tenancy agreement. The landlord stated that the tenants have not paid any money for residing in the rental unit since the expiry of the fixed term agreement. The landlord seek to an order of possession and a monetary order in the amount of \$3,000.00.

The tenant testified that they have been moving their belongings from the rental unit and will be out of the rental unit no later than Sunday, July 12, 2015.

The tenant testified that they have not paid any rent since the expiry of the fixed term agreement expired.

The landlord responded that they are agreeable to the vacate date of July 12, 2015.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, the tenancy legally ended on May 16, 2015, as stated in the tenancy agreement. I find the tenants have breached the Act, when they failed to vacate the rental unit as required by the tenancy agreement.

I find that the landlord is entitled to an Order of Possession effective at 1:00pm on July 12, 2015. A copy of this Order must be served on the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I further find that from May 16, 2015, the tenants have been overholding the rental unit as occupants. I find the landlord has suffered a loss of rent as the tenant admitted that they have not pay any occupancy rent for May 2015, and June 2015, although they have continue to reside the rental premises.

I find that the landlord has established a total monetary claim of **\$3,000.00** comprised of the occupancy rent for May 2015 and June 2015. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The landlord is entitled to an order of possession and a monetary order.

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: July 06, 2015

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Residential Tenancy Branch

