



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JACOTECH ENTERPRISES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, FF; CNR, FF

### Introduction

This hearing dealt with landlord EG's ("landlord") and landlord JCL's ("landlord company") application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application against the landlord and "landlord AG," pursuant to the *Act* for:

- cancellation of the landlords' 10 Day Notice to End Tenancy for Unpaid Rent, dated August 23, 2015 ("10 Day Notice"), pursuant to section 46;
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72.

The landlord and the tenant attended the hearing and were each given a full opportunity to be heard, to present sworn testimony, to make submissions, and to call witnesses.

The landlord confirmed that she had authority to speak on behalf of her husband landlord AG, and the landlord company as she is co-owner, as an agent at this hearing. This hearing lasted approximately 37 minutes.

Both parties confirmed receipt of each other's application for dispute resolution hearing packages. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with each other's applications.

### Issues to be Decided

Should the landlords' 10 Day Notice be cancelled? If not, are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary award for unpaid rent?

Is either party entitled to recover the filing fee for their application?

### Background and Evidence

Both parties agreed that this tenancy began on September 15, 2014 for a fixed term of one year, after which it transitioned to a month-to-month tenancy. Monthly rent in the amount of \$2,100.00 is payable on the first day of each month. A security deposit of \$1,050.00 and a pet damage deposit of \$1,050.00 (collectively "deposits") were paid by the tenant and the landlords continue to retain both deposits. Both parties agreed that a move-in condition inspection report was completed for this tenancy. A written tenancy agreement was provided for this hearing. The tenant continues to reside in the rental unit.

The landlord issued the 10 Day Notice, with an effective move-out date of September 2, 2015. The notice indicates that rent of \$2,100.00 was due on August 1, 2015. Both parties agreed that rent totalling \$6,300.00 from August to October 2015 was unpaid by the tenant.

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. Both parties agreed that this tenancy will end by 1:00 p.m. on November 2, 2015, by which time the tenant and any other occupants will have vacated the rental unit;
2. Both parties agreed that the landlords will retain both of the tenant's deposits, totaling \$2,100.00, and the landlords understand the consequences of doing so prior to the end of this tenancy;

3. Both parties agreed that the tenant will pay the landlords \$4,200.00 by January 23, 2016;
4. Both parties agreed that conditions #2 and 3 settle all outstanding rent owed by the tenant to the landlords from August 1 to November 2, 2015;
5. The landlords agreed to bear the cost of their \$100.00 application filing fee and the tenant agreed to bear the cost of her \$50.00 application filing fee;
6. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties testified at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties testified that they understood and agreed that the above terms are legal, final and binding and enforceable, which settle all aspects of this dispute.

### Conclusion

To give effect to the settlement reached between the parties, and as advised to both parties during the hearing, I issue the attached Order of Possession to be used by the the landlord and/or the landlord company **only** if the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on November 2, 2015. Those landlords are provided with this Order in the above terms and the tenant must be served with this Order in the event that the tenant and any other occupants fail to vacate the rental premises by 1:00 p.m. on November 2, 2015. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the landlord's and the landlord company's favour in the amount of \$4,200.00. I deliver this Order to those landlords in support of the above agreement for use **only** in the event that the tenant fails to abide by condition #3 of the above monetary agreement. Those landlords are provided with this Order in the above terms and the tenant must be served with a copy of this Order in the event that the tenant fails to abide by condition #3 of the above monetary agreement. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

To give effect to the settlement reached between the parties, I order the landlord and the landlord company to retain both of the tenant's deposits, totaling \$2,100.00.

The landlords' 10 Day Notice, dated August 23, 2015 is cancelled and of no force or effect.

Both parties agreed to bear the cost of their own filing fees for their Applications.

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: October 23, 2015

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Residential Tenancy Branch

