



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding POLDERSIDE FARMS INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC, LAT, LRE, OPC, FF

### Introduction

In the first application the tenant applies to cancel a one month Notice to End Tenancy for cause dated October 22, 2015 and for an order restricting the landlord's right of entry and for authorization for him to change locks on the rental unit.

In the second application the landlord seeks an order of possession pursuant to the Notice.

At hearing the landlord alleged that the tenancy has ended pursuant to a Mutual Agreement to End Tenancy and that the tenant has vacated the premises.

The tenant denies he agreed to mutually end the tenancy.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

The preliminary issue, which I find to be determinative of both claims, is whether or not the parties entered into a mutual agreement to end the tenancy, rendering the Notice of no effect and rendering the tenant's claims moot.

### Background and Evidence

The rental unit is a one bedroom house located close by the landlord Ms. J.'s house on a poultry farm.

The tenancy started in November 2013. There is no written tenancy agreement. The rent was \$850.00 per month. The landlord holds a \$425.00 security deposit.

The parties agree that there exists a written Mutual Agreement to End Tenancy dated October 15, 2015 bringing an end to the tenancy on November 30, 2015. It is agreed that both the tenant and Ms. J. signed the document.

The tenant testifies that he had the document in the house but did not deliver it to the landlord. He says that she wrongfully entered the house and took the document.

The tenant's evidence shows that by the end of November he had moved most of his belongings out of the home. When he returned on December 1<sup>st</sup>, he found that the farm gate had been locked and the lock on the house had been changed. One or both sides called the police. He was able to retrieve the remainder of his items, some plants and a couple of computer related items.

The landlord Ms. J. testifies that she provided the tenant with the Mutual Agreement to sign in mid-October. She says that starting about November 21 the tenant moved his belongings out of the home and that on November 28, as she and a friend were leaving her home, the tenant came over and handed her the signed Mutual Agreement to End Tenancy.

She says that the tenant returned December 1<sup>st</sup> and retrieved only a bean bag tray. She has not heard from the tenant since December 2<sup>nd</sup>.

### Analysis

On these facts I find that when the landlord presented the tenant with the Mutual Agreement to End the Tenancy document signed by her, it was an offer by her to end the tenancy on those terms. Though the tenant may have signed the document, at law there can be no acceptance until that acceptance is conveyed to the offeror (the landlord).

If the landlord retrieved the fully signed document without the tenant's permission then there has been no acceptance conveyed to the landlord and the agreement is not binding.

In this case I find that the tenant did give the Mutual Agreement to End Tenancy to the landlord as she testifies. The tenant did not explain why he would sign the document

when he did not agree to it. The tenant did not explain why, if he did not mutually agree to move out at the end of November and wanted the tenancy to continue, he had moved most all his belongings out by then.

The lack of explanation about these aspects renders it most likely that the tenant had made a decision to leave by the end of November and gave the landlord Ms. J. the signed Mutual Agreement to End Tenancy

### Conclusion

This tenancy ended by mutual agreement on November 30, 2015. The question of the validity of the one month Notice to End Tenancy is no longer a pertinent issue. The tenant's request for suspending the landlords' right of entry or for a lock change are no longer relevant. As is the landlord's request for an order of possession.

Both applications are dismissed. I make no order for recover of any filing fee.

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: December 29, 2015

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Residential Tenancy Branch

