



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPB MND FF O

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on May 27, 2016 (the "Application").

The Landlord has applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for breach of an agreement; a monetary order for damage to the unit, site, or property; an order granting recovery of the filing fee; and other unspecified relief.

The Landlord attended the hearing on his own behalf and provided his solemn affirmation. The Tenants did not attend the hearing.

The Landlord provided oral testimony stating the Tenants were served with the Application and Notice of Dispute Resolution Hearing by registered mail on May 27, 2016. The Landlord further testified that a second copy was left attached to the door of the Tenants' rental unit.

Pursuant to section 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find the Tenants were duly served with the Application and Notice of a Dispute Resolution Hearing on June 1, 2016.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

Several orders are being sought by the Landlord. Rule 2.3 of the Residential Tenancy Branch Rules of Procedure permit an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issue in the Landlord's Application was whether or not the tenancy would continue. Further, the remainder of the relief being sought by the Landlord is monetary in nature and the tenancy is not yet at an end.

In light of the above, I find it appropriate to exercise my discretion to dismiss all but the Landlord's application for an order of possession, and whether or not the Landlord is entitled to recover the filing fee. The balance of the Landlord's Application is dismissed with leave to reapply at a later date.

### Issues to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recover the filing fee?

### Background and Evidence

The Landlord provided a copy of the written tenancy agreement, signed by the parties on February 27, 2016. It confirms a fixed-term tenancy for the period from February 1, 2016 to July 31, 2016. Rent in the amount of \$1,050.00 is due and payable by the Tenants on the first day of each month. The Tenants did not pay a security deposit.

The tenancy agreement includes a provision that the Tenants must move out of the residential unit at the end of the tenancy. Both the Landlord and the Tenant have initialled the appropriate box on the tenancy agreement to reflect this understanding.

The Landlord testified to his belief the Tenants will not vacate the rental unit at the end of the tenancy. He also provided oral testimony suggesting the Tenants want him to pay their moving expenses.

### Analysis

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

The Landlord has provided affirmed testimony confirming his belief the Tenant will not vacate the rental unit at the end of the fixed-term tenancy.

In accordance with the tenancy agreement between the parties, I find the Landlord is entitled to an order of possession. The order of possession will be effective July 31, 2016, at 1:00 p.m.

The Landlord also applied to recover the filing fee. As the application for an order of possession was pre-emptive, and the tenancy has not yet ended, I decline to make an order permitting the Landlord to recover the filing fee.

### Conclusion

The Landlord is granted an order of possession, which will be effective July 31, 2016, at 1:00 p.m. This order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: June 27, 2016

---

Residential Tenancy Branch