



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC

This hearing was convened in response to an application by the Tenant pursuant to section 47 of the *Residential Tenancy Act* (the “Act”) for an order cancelling a notice to end tenancy.

The Parties confirm that on October 24, 2016 the matter was resolved through a written mutual agreement to end the tenancy for February 28, 2017. The Landlord withdraws the notice to end tenancy and the Tenant withdraws its application. The Landlord claims an order of possession.

Section 55 of the Act provides that where a tenant makes an application to dispute a notice a landlord must be granted an order of possession where

- (a) the landlord's notice to end tenancy complies in form and content, and
- (b) during the dispute resolution proceeding, the tenant's application is dismissed or the landlord's notice is upheld.

This section further provides that a landlord may request an order of possession where the landlord and tenant have agreed in writing that the tenancy is ended, however this may only be made through an application by the landlord. Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

Although at the hearing it was indicated that an order of possession could be granted upon further reflection and consideration of the Act I find that I cannot grant an order of

possession as the Landlord has not made an application and there has been no determination on the merits of the Tenant's application or the notice to end tenancy. Further the settlement did not occur during the proceedings and I may not therefore issue an order of possession to give effect to the settlement. I therefore decline issuing an order of possession.

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 31, 2016

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Residential Tenancy Branch