



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

OPB

### Introduction

This hearing dealt with the landlord's application pursuant to section 55 of the *Residential Tenancy Act* (the "Act") for an order of possession for breach of an agreement with the landlord.

The tenants and landlord's agent attended the hearing. The landlord confirmed he is an agent of the landlord's company named in this application, and had authority to speak on its behalf.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

Both parties were given full opportunity to provide affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for breach of an agreement with the landlord?

### Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began on September 1, 2015 on a fixed term tenancy until August 31, 2016. Rent in the amount of \$3,500.00 is payable on the first of each month. The tenants remitted a security deposit in the amount of \$1,750.00 at the start of the tenancy. The tenants continues to reside in the rental unit

The landlord contends the tenants signed the tenancy agreement and initialled the clause signifying at the end of the fixed term the tenancy ends and the tenants must move out of the rental unit. The landlord testified that despite reminders of the end date, the tenants remain in the rental unit. The tenants have paid September, October and November rent and have been issued receipts for use and occupancy only.

The tenants acknowledge initialling the fixed term tenancy clause but argue this was done based on the landlord's assurance it was only a formality. In an email submitted by the tenants, the landlord indicated he wanted the tenants' long term but liked to renew on a yearly basis. Further the tenants testified that it was their assumption the tenancy reverted to a month-to-month tenancy because the landlord has accepted rent following the date the tenancy was set to end.

### Analysis

Section 44 of the *Act* establishes that a tenancy may end if the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit on the date specified as the end of the tenancy.

The tenants acknowledge they signed the fixed term tenancy but contend it was on the basis the landlord told them it was a formality. The tenants argued a new month to month tenancy agreement was created based on the payment of rent after the tenancy was set to end. The tenants and landlord agreed in writing that the tenancy would end August 31, 2016. The landlord telling the tenants he wants them long term and the payment of rent after the date the tenancy is set to end, does not negate the validity of the existing signed tenancy agreement nor is it evidence that the tenancy was to continue past August 31, 2016.

For the reasons stated above, I find the landlord was entitled to possession of the rental unit on August 31, 2016 and as this has not occurred, I find the landlord is entitled to an order of possession effective November 30, 2016.

### Conclusion

An order of possession is granted to the landlord effective November 30, 2016 at 1:00 p.m.

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: November 09, 2016

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Residential Tenancy Branch