



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Westcorp Property Management Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPB, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for breach of an agreement and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord attended the hearing with an observer. One of the tenants also attended with an observer. The parties each gave affirmed testimony and were given the opportunity to question each other.

The tenant has provided evidentiary material, however during the course of the hearing it was determined that the tenant has not provided a copy to the landlord. The tenant stated that the receipts in the evidentiary material came from the landlord. The Residential Tenancy Branch Rules of Procedure require that any evidence that a party relies on must be provided to the other party, even if they already have it. Since the tenant has not provided a copy of the material to the landlord, I decline to consider it.

The landlord's agent also testified that additional evidentiary material was faxed to the Residential Tenancy Branch on January 9, 2016, but has not been received by me.

No other issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for breach of an agreement?

### Background and Evidence

**The landlord's agent** testified that this tenancy began as a fixed term in mid-August, 2015 and expired on March 31, 2016. The parties entered into another fixed term agreement for a tenancy to begin on April 1, 2016 expiring on December 31, 2016 at which time the tenants were required to vacate the rental unit. A copy of the second tenancy agreement has been provided, and the landlord's agent testified that the signatures on the agreement are that of both tenants and the landlord's property manager. The tenants have not vacated.

Rent in the amount of \$900.00 per month is payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$450.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is a manufactured home in a manufactured home park, both of which are owned by the landlord company.

The landlord did not agree to enter into another tenancy agreement due to repeated late rent and other breaches of the tenancy agreement, and the landlord sent a letter to the tenants advising them of that on October 31, 2016.

The tenant has provided the landlord with 2 invoices for \$10,100.00 marked, "Development Eviction Payment." The landlord intends to re-rent the rental unit, and has a new tenant lined up.

**The tenant** testified that the tenants were told they could stay for another year, and were told that if they had to move, they would be provided with 3 months notice.

The tenant further testified that the landlord company purchased the rental unit and the manufactured home park. People who move out before the park closes get nothing, and 15 homes have been bull-dozed. The landlord contaminated the park with mould spores and asbestos during the bull-doing, and the tenant called the government who told the tenant to take pictures till their people got there. When they arrived, the landlord company was shut down immediately. The landlord's agent told the tenant to wait till the end of the lease and see what happens. There are currently 30 empty units.

At the beginning of December, 2016 the tenant's room-mate moved out. The tenant paid rent to the end of January, 2017 and can have another room-mate by March, 2017.

The tenant also asks that I view 2 News-links on line, and orally provided the web addresses. The tenant is a senior citizen trying to maintain his home.

### Analysis

The tenant did not dispute the tenancy agreement provided by the landlord, which clearly shows that the tenants must move out of the rental unit by December 31, 2016 and must not over-hold. The tenancy agreement is a contract that must be upheld by both parties. Whether or not the landlord intends to re-rent or demolish the rental unit is not relevant to this dispute. The relevance is the end of the fixed term, which I find has expired.

In the evidence before me, I am satisfied that the landlord is entitled to an Order of Possession for breach of the tenancy agreement. Since the effective date of vacancy on the fixed-term tenancy agreement has passed, I grant the Order of Possession on 2 days notice to the tenants.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord as against the tenants for that amount.

#### Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenants.

I further grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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: January 26, 2017

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Residential Tenancy Branch