



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, OPB, MNDC, FF, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking an Order of Possession for cause and for breach of an agreement; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

Both landlords attended the hearing, one of whom gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. One of the landlords testified that the tenant was served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on May 30, 2017, and the landlords have provided a copy of a Registered Domestic Customer Receipt addressed to the tenant and stamped with that date by Canada Post and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession for cause or for breach of an agreement?
- Have the landlords established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for overholding?

### Background and Evidence

The landlord testified that this 1 year fixed term tenancy began on February 1, 2016, and was renewed for another fixed term tenancy beginning on February 1, 2017 and expiring on February 1, 2018. Rent in the amount of \$1,020.00 per month is payable on the 1<sup>st</sup> day of each month, however the parties verbally agreed that rent could be paid on the 8<sup>th</sup> day of each month to correspond with the tenants' paydays. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of

\$500.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a manufactured home on property that the landlords also reside on. A copy of the latest tenancy agreement has been provided.

The landlord further testified that one of the tenants gave notice to end her tenancy on May 23, 2017 due to family violence, and a copy has been provided. The landlords gave the remaining tenant notice to vacate effective May 31, 2017, but the tenant has not moved out and has not paid any rent for June or July, 2017. A copy of that notice has also been provided as evidence for this hearing. The tenant is overholding, the landlords have not received any rent since the first tenant vacated. The landlords have not entered into a new tenancy agreement with the remaining tenant, and the landlords seek an Order of Possession and a monetary order for loss of rental revenue totalling \$2,040.00, and recovery of the \$100.00 filing fee.

### Analysis

The *Residential Tenancy Act* states:

**45.3** If a fixed term tenancy is ended under section 45.1 [*tenant's notice: family violence or long-term care*] by one of 2 or more tenants who are subject to the same tenancy agreement, the remaining tenant or tenants must also vacate the rental unit, unless the remaining tenant or tenants enter into a new tenancy agreement with the landlord.

In this case, the tenancy is fixed until February 1, 2018, one of the tenants has ended the tenancy with the landlords due to a domestic incident, which the landlords consented to, and no new tenancy agreement has been entered into with the remaining tenant. Therefore, I find that the landlords are entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord that the remaining tenant has not paid any rent since the first tenant moved out of the rental unit, and I am satisfied that the landlords are owed \$2,040.00 for loss of rental revenue.

Since the landlords have been successful with the application the landlords are also entitled to recovery of the \$100.00 filing fee.

### Conclusion

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

I further grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,140.00.

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: July 25, 2017

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Residential Tenancy Branch