



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the Residential Tenancy Act ("Act") for:

- an Order of Possession pursuant to section 55; and
- authorization to recover the filing fee of this application from the tenant.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord was represented by his agent, HT (the "landlord").

As both parties were in attendance I confirmed that there were no issues with service of the landlord's application for dispute resolution or evidentiary materials. The tenant confirmed receipt of the landlord's materials and testified that he has not submitted any written evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with copies of the landlord's application and evidence.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee of this application from the tenants?

### Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here. The principal aspects of the landlord's claims and my findings around each are set out below.

This fixed term tenancy began in July, 2016. The monthly rent is \$805.00. The tenant testified that he paid \$200.00 in cash to the previous occupant of the rental unit for,

what he believed to be a security deposit. The landlord testified that no such deposit was paid to the landlord.

The tenancy agreement states that at the end of the fixed term on June 30, 2017, the tenancy ends and the tenant must move out of the residential unit. The tenant may inform the landlord at least one month prior to ending the lease if they wish to renew the lease.

The tenant testified that he was not provided a copy of the tenancy agreement at the start of the tenancy. He said that he expressed his desire to continue the tenancy at the outset and verbally repeated his intention several times thereafter to the building caretakers, who also happened to be the tenant's parents. The tenant said that he believes that the landlord's refusal to allow his continued tenancy is a vindictive scheme of the landlord, as he offended one of the property owners.

The tenant testified that he has paid his parents, the caretakers of the property, the rent for July, 2017 in cash. The tenant said that he was provided a receipt for the cash payment but did not submit it into written evidence. The landlord testified that they did not accept July rent payment and had previously informed their caretakers not to accept any payment for this tenancy.

### Analysis

Section 13 of the *Act* sets out the requirements for tenancy agreements. Fixed term tenancy agreements must state the date the tenancy ends, and whether the tenancy may continue as a periodic tenancy, for another fixed term, or whether the tenant must vacate the rental unit on that date.

I find that the tenancy agreement signed by the parties clearly states that the fixed term tenancy ends on June 30, 2017. The tenant has the option of applying to renew the lease by providing the landlord one month notice but there is no obligation on the landlord to extend the tenancy.

I find that much of the tenant's evidence was internally inconsistent and unreasonable. I find there is insufficient evidence that the tenant paid a security deposit for this tenancy. The tenant said that he gave cash to the previous occupant of the rental unit and was provided with a receipt. No receipt was submitted into written evidence. I find that there is insufficient evidence to show that such a payment occurred, and even if it did there is

no reasonable basis to conclude why cash given to a previous occupant would be considered a security deposit.

I do not find the tenant's evidence that he was not provided with a copy of the tenancy agreement to be credible. I accept the landlord's testimony that as a matter of course, they provide a copy of the tenancy agreement to all tenants at the start of the tenancy.

I do not find the tenant has provided sufficient evidence in support of his arguments that this is not a fixed term tenancy. I do not find the tenant's evidence that the landlord's enforcement of the fixed term tenancy to be a targeted attack to be credible or based in anything more than the conjecture of the tenant. I do not find that there is sufficient evidence that the tenant informed the landlord of his wish to continue this tenancy within the timeframe allotted. It would be reasonable to expect that there would be some record or correspondence between the parties if such a discussion took place. The tenant did not submit any written evidence in support of such a conversation, and even if there was a discussion there is no evidence that the landlord consented to extending or renewing the fixed term tenancy.

I do not find there to be sufficient evidence to support the tenant's position that monthly rent for July, 2017 was accepted by the landlord. The tenant testified that he paid the rent in cash to the caretakers, who happen to be his parents. The tenant said that a receipt was issued but a copy was not submitted into written evidence. I accept the landlord's testimony that no payment was accepted and the caretakers were instructed this tenancy is not continuing.

I find that the parties entered into a fixed term tenancy. I find that the tenant failed to inform the landlord of their desire to extend the tenancy and in any event the landlord did not consent to renew the tenancy. Therefore, I find that pursuant to the tenancy agreement and section 55(2)(c) of the *Act*, the tenancy ended on June 30, 2017 and the landlord is entitled to an Order of Possession. As the end date of the tenancy has passed I issue an Order of Possession enforceable 2 days after service.

As the landlord's application was successful the landlord is entitled to recover the \$100.00 filing fee for this application.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$100.00. The landlord is provided with a Monetary Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 26, 2017

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Residential Tenancy Branch