



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPM

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on September 19, 2017. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession based on a mutual agreement to end tenancy

The Landlords, A.W. and P.H., both attended the hearing and provided affirmed testimony. The Tenant did not attend the hearing.

The Landlords testified that they sent the Notice of Hearing along with supporting documentary evidence to the Tenant on July 11, 2017, by registered mail. I find the Tenant received this package on July 16, 2017, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

After filing the initial application for an order of possession based on a mutual agreement to end tenancy, the Landlords have tried to amend their application to include expenses they have incurred, and expect to incur with respect to the tenancy.

In consideration of this, I turn to the Residential Tenancy Branch Rule of Procedure 2.3. It states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

I find the order of possession based on a mutual agreement to end the tenancy is not sufficiently related to the Landlord's claim for monetary compensation. Further, many of the monetary claims made by the Landlords are based on circumstances and events

that have not occurred, and many of the items are costs they anticipate. I find some of the items are premature and they are largely unrelated to the order of possession they are seeking.

The parties were given a priority hearing date in order to address the order of possession based on the mutual agreement to end tenancy and the monetary claim is unrelated in that the basis for it rests largely on facts not relevant to the question of whether there are facts which establish the grounds for ending this tenancy. I exercise my discretion not to allow the monetary claim amendments.

The Landlords were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issues to be Decided

- Is the Landlord entitled to an order of possession based on a mutual agreement to end tenancy?

#### Background and Evidence

The Landlords testified that they did not sign a written tenancy agreement with the Tenant. However, they provided a copy of the online ad they posted for rental of the unit. According to the Landlord's testimony in the hearing, current rent is \$800.00 and is due on the first of the month for the rental unit located at: BSMT – 4362 Pandora Street, Burnaby.

The Landlords provided a copy of a mutual agreement to end tenancy (the "agreement"), dated May 1, 2017. The agreement specifies that the Tenant agreed to vacate the rental unit by 1:00 pm on July 1, 2017. As part of this agreement, the Landlord offered to give the Tenant free rent for the months of May and June of 2017. Both the Landlord and the Tenant signed this written agreement.

The Landlords testified that the Tenant did not move out as specified by the agreement

#### Analysis

Section 44 of the Act allows for a tenancy to end by mutual agreement of the parties to the tenancy as long as the agreement is in writing.

Based on the testimony and documentary evidence, and on a balance of probabilities, I find there is sufficient evidence to demonstrate that the parties entered into a mutual agreement to end the tenancy, effective July 1, 2017. I accept the Landlord's undisputed submissions that the tenant continues to occupy the rental unit, as of the date of this hearing.

I find the Landlords are entitled to an order of possession based on the mutual agreement to end tenancy. This order of possession will be effective two (2) days after it is served on the Tenant.

### Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenant. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be 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: September 19, 2017

---

Residential Tenancy Branch