



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LIVE HOLDINGS OF CANADA INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPB

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on October 5, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by A.M., an agent. The Tenant attended the hearing on his own behalf. Both provided a solemn affirmation at the beginning of the hearing.

The Landlord testified that the Tenant was served with the Application package by posting a copy to the door of the Tenant's rental unit on November 10, 2017. He advised that he returned the following day and noted the Application package was no longer on the Tenant's door. Although not served in accordance with the Rules of Procedure, the Tenant confirmed he received the Application package and that he had an opportunity to review and consider it. Pursuant to section 71 of the *Act*, I find the Tenant was sufficiently served with the Application package for the purposes of the *Act*. The Tenant did not submit any documentary evidence in response to the Tenant's Application.

The parties were given an 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.

### Issue to be Decided

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to an order granting recovery of the filing fee?

### Background and Evidence

The Landlord submitted a copy of the tenancy agreement, dated June 16, 2017, into evidence. It confirmed a fixed-term tenancy for the period from July 1, 2017 to September 30, 2017. The agreement included a “vacate clause” which required the Tenant to move out of the rental unit at the end of the fixed term. Rent in the amount of \$1,050.00 per month was due on the first day of each month. The Tenant paid a security deposit of \$750.00, which the Landlord holds.

As of the date of this Decision, the Tenant continues to occupy the rental unit. However, the Tenant acknowledged during the hearing that he signed the tenancy agreement. He testified he has lived in the rental unit for three years, and that this tenancy agreement included a significant rent increase

### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 55(2)(d) of the *Act* states:

*A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution:*

...

*(d) the landlord and tenant have agreed in writing that the tenancy is ended.*

[Reproduced as written.]

I find that the Landlord and the Tenant agreed that the tenancy would end on September 30, 2017, and that the Tenant would vacate the rental unit on that date. However, the Tenant continues to occupy the rental unit. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

In addition, having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application, which I order may be retained from the security deposit held.

#### Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: December 4, 2017

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Residential Tenancy Branch