



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNRL, OPR

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on May 31, 2018 (the “Application”). The Landlord sought an Order of Possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 16, 2016 (the “10 Day Notice”). The Landlord also sought to recover unpaid rent and reimbursement for the filing fee.

The Landlord had filed an amendment to the Application on June 28, 2018 (the “Amendment”). The Amendment indicates that a Two Month Notice to End Tenancy had been served on June 6, 2018 (the “Two Month Notice”). The Landlord sought an Order of Possession based on the Two Month Notice.

The Landlord appeared at the hearing with S.A. The Tenant appeared at the hearing. The Tenant provided his correct legal last name and the Landlord asked to amend the Application accordingly. The style of cause reflects this.

I explained the hearing process to the parties who did not have questions when asked. The Landlord, Tenant and S.A. provided affirmed testimony.

The Landlord had submitted evidence prior to the hearing. Not all of this evidence was available to me. Some of this evidence had been uploaded to the wrong file number.

The Tenant had not submitted evidence on this file but had submitted evidence on File Number 1 as noted on the front page of this decision. File Number 1 relates to an Application for Dispute Resolution filed by the Tenant on June 19, 2018.

The Tenant confirmed he received the hearing package, Amendment and Landlord's evidence and did not raise any issues in this regard.

I heard from the parties regarding whether the Tenant served his evidence for File Number 1 on the Landlord. I will not detail this evidence here as the parties came to a settlement agreement and therefore I did not find it necessary to determine whether I would consider the evidence filed on File Number 1 at this hearing.

During the hearing, it was brought to my attention that the parties had a previous hearing where details of the tenancy agreement were discussed. The previous hearing was for File Number 2 as noted on the front page of this decision. For this present decision, it is sufficient to note that it was determined in the previous hearing that there is a tenancy agreement between the parties regarding the rental unit. There was no dispute about this during the present hearing.

Based on comments made by the Landlord and S.A. during the hearing, I raised the possibility of settlement pursuant to section 63(1) of the *Residential Tenancy Act* (the "Act") which allows an arbitrator to assist the parties to settle the dispute.

I explained the following to the parties. Settlement discussions are voluntary. If they chose not to discuss settlement, I would make a final and binding decision in the matter. If they chose to discuss settlement and did not come to an agreement, that was fine and I would make a final and binding decision in the matter. If they did come to an agreement, I would write out the agreement in my written decision and make any necessary orders. The written decision would become a final and legally binding agreement and neither party could change their mind later.

The parties did not have questions about the above when asked. The parties agreed to discuss settlement and a discussion ensued.

Prior to ending the hearing, I confirmed the terms of the settlement agreement with the parties. I told the parties I would issue an Order of Possession. I confirmed with the parties that all issues had been covered. The parties confirmed they were agreeing to the settlement voluntarily and without pressure from the other party or me. The parties confirmed they understood the agreement was final and legally binding. The parties did not have any final questions or comments when asked.

Settlement Agreement

The Landlord and Tenant agree as follows:

1. The 10 Day Notice is cancelled.
2. The Two Month Notice dated June 6, 2018 is cancelled.
3. The tenancy will end and the Tenant will vacate the rental unit by 1:00 p.m. on July 31, 2018.
4. The Landlord waives his right to rent for May and June of 2018 and therefore the Tenant does not owe rent under the tenancy agreement for these months.
5. The Tenant is authorized to withhold rent for July of 2018 given he was served with the Two Month Notice and therefore the Tenant does not owe rent under the tenancy agreement for this month.
6. The Landlord withdraws his application for reimbursement of the filing fee.
7. The Tenant withdraws his application on File Number 1.
8. All rights and obligations of the Landlord and Tenant under the tenancy agreement will continue until 1:00 p.m. on July 31, 2018 except for any agreement about rent given terms 4 and 5 above.
9. This agreement is in full and final satisfaction of all issues relating to this tenancy. Neither the Landlord nor the Tenant will bring further Applications for Dispute Resolution against the other in relation to this tenancy.

This agreement is fully binding on the parties and is in full and final satisfaction of all issues relating to this tenancy.

Further to the settlement agreement, both the 10 Day Notice and Two Month Notice are cancelled.

The Landlord is granted an Order of Possession for the rental unit which is effective at 1:00 p.m. on July 31, 2018. If the Tenant fails to vacate the rental unit in accordance with the settlement agreement set out above, the Landlord must serve the Tenant with

this Order. If the Tenant fails to vacate the rental unit in accordance with the Order, the Order may be enforced in the Supreme Court as an order of that Court.

I note that both parties acknowledged that they are aware of the provisions of the *Act* regarding compensation where a landlord or purchaser does not follow through with the stated purpose of a notice to end tenancy issued under section 49 of the *Act*. The Tenant agreed to the Two Month Notice being cancelled knowing that this would preclude him from seeking compensation if the Landlord or purchaser does not follow through with the stated purpose of the Two Month Notice. Further, I explained the consequences of both parties agreeing that this settlement is in full and final satisfaction of all issues relating to the tenancy agreement and both parties were content with this agreement.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: July 23, 2018

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Residential Tenancy Branch