



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPM, FFL

### Introduction

This hearing dealt with a landlords' Application for Dispute Resolution ("Application") seeking remedy under the *Residential Tenancy Act* ("Act") for an order of possession based on a signed Mutual Agreement to End Tenancy and to recover the cost of the filing fee.

The landlords and two agents for the landlord ("agents") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlords and agents were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The agents testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on September 2, 2018. A registered mail tracking number was provided orally and has been included on the cover page of this decision for ease of reference and is identified as "1". According to the Canada Post online registered mail tracking website, the tenant signed for and accepted the registered mail package on August 7, 2018.

The agents also stated that a second registered mail package was mailed on September 5, 2018 containing additional evidence. The second registered mail tracking number has also been included on the cover page of this decision and is identified as "2". According to the Canada Post online registered mail tracking website, the tenant has not picked up the second registered mail package. Section 90 of the *Act* states that documents served by registered mail are deemed served five days after they are mailed and as a result, I find the tenant was deemed served with the second evidence package as of September 10, 2018.

Based on the above, I find the tenant to have been sufficiently served and as the tenant did not attend the hearing, the hearing continued without the tenant present. I find this application is undisputed by the tenant as a result.

#### Preliminary and Procedural Matter

The landlords and agents confirmed their email addresses at the outset of the hearing. The landlords and agents confirmed their understanding that the decision would be emailed to the landlords and agents including any applicable orders and that the tenants would receive their decision by regular mail as no email address was listed on the application for the tenant.

#### Issues to be Decided

- Are the landlords entitled to an order of possession based on a mutual agreement to end tenancy between the parties?
- Are the landlords entitled to the recovery of the cost of the filing fee under the *Act*?

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on July 1, 2017 and reverted to a month to month tenancy after June 30, 2018. Monthly rent in the amount of \$850.00 is due on the first day of each month. According to the landlords the tenant failed to pay a security deposit to the previous owners and as a result, the landlords do not have a security deposit from the tenant.

The parties referred to a signed Mutual Agreement to End a Tenancy document ("Mutual Agreement") dated July 18, 2018 and signed by the parties and indicates that the tenancy will end on September 30, 2018 at 1:00 p.m. The Mutual Agreement was submitted in evidence.

The parties stated that the tenant continues to occupy the rental unit and they are applying for an order of possession to ensure that the tenant vacates the rental unit on September 30, 2018 by 1:00 p.m. as agreed in the Mutual Agreement.

#### Analysis

Based on the undisputed documentary evidence from the landlords and undisputed testimony provided by the agents and landlords during the hearing, and on the balance of probabilities, I find the following.

**Order of possession** - I find that pursuant to section 44(1)(c) of the *Act* the parties mutually agreed in writing to end the tenancy on September 30, 2018 at 1:00 p.m. This is supported by the Mutual Agreement submitted in evidence and the testimony before me. Therefore, I find the tenancy ends on September 30, 2018 at 1:00 p.m. and therefore I grant the landlords an order of possession effective **September 30, 2018 at 1:00 p.m.**

As the landlords have succeeded with their application, I grant the landlords the recovery of the cost of the filing fee pursuant to section 72 of the *Act* in the amount of \$100.00. I grant the landlords a monetary order pursuant to section 67 of the *Act* in the amount of **\$100.00** accordingly.

### Conclusion

The landlords' application is successful.

The landlords have been granted an order of possession effective September 30, 2018 at 1:00 p.m. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia. I find the tenancy ends on September 30, 2018 at 1:00 p.m.

The landlords are granted a \$100.00 monetary order for the recovery of the cost of the filing fee under the *Act* as noted above.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 20, 2018

---

Residential Tenancy Branch