



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** CNR

### **Introduction**

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for non-payment of rent.

Both parties attended this 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 their agent.

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing, the parties informed me that on May 09, 2019, the parties had entered into a mutual agreement to end the tenancy, effective May 31, 2019.

### **Analysis**

Section 55 of the *Residential Tenancy Act* addresses orders of possession. Section 55(2)(d) states that a landlord may request an order of possession of a rental unit if the landlord and tenant have agreed in writing that the tenancy is ending.

In this case, the parties agreed that on May 09, 2019, they had entered into a mutual end to tenancy agreement, effective May 31, 2019. However as of the date of this hearing (June 14, 2019) the tenant had not moved out and continued to occupy the rental unit. The tenant also agreed that he had not paid rent for the months of May and June 2019.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy, on the date set out in the mutual end

to tenancy agreement and must vacate the rental unit by that date. Accordingly, the tenant's application to cancel the notice is dismissed.

During the hearing the landlord made a request under section 55 of the legislation for an order of possession effective immediately.

Pursuant to the mutual end to tenancy agreement, I grant the landlord an order of possession effective two days after service on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

### **Conclusion**

Based on the mutual agreement, the tenant's application to cancel the notice to end tenancy is dismissed and the tenancy will end two days after service of the order of possession on the tenant.

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: June 14, 2019

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Residential Tenancy Branch