



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ALL STAR DEVELOPMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes     OPM, FF

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the “hearing package”) by registered mail on June 6, 2019. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with both the Landlord and the Tenants in attendance.

### Issues(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?

### Background and Evidence

This tenancy started on August 4, 2011 as a 1 year fixed term tenancy with an expiry date of August 1, 2012 and then continued on a month to month basis. Rent is \$1,579.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenants paid a security deposit of \$738.00 at the start of the tenancy. A move in condition inspection report was completed on August 1, 2011.

The Landlord said the Tenants and the Landlord completed and signed a Mutual Agreement to End Tenancy dated November 9, 2018 with an effective vacancy date of June 30, 2019. The Landlord said the Tenants picked the effective vacancy date of June 30, 2019 to allow the Tenants’ children to finish the school year. The Landlord continued to say the Tenants have refused to move out and he is requesting an Order of Possession to support the Mutual Agreement to End Tenancy. The Landlord said he is willing to extend the tenancy to August 15, 2019 so that the Tenants can have time to find a new rental unit to move to. The Landlord also said he may be able to give the Tenants some assistance to help the Tenants move.

The Tenants said they did agree to and sign the Mutual Agreement to End Tenancy dated November 9, 2018 with an effective date of June 30, 2019. The Tenant continued to say their circumstances have changed due to a car accident and now they have some health issues so they do not want to move. The male Tenant said it is difficult to find rental accommodation and he is unable to work at the present time so finding a new rental unit will be very difficult. As well the male Tenant said they agreed to the Mutual Agreement to End Tenancy because this rental unit is in poor shape and needs many repairs. The male Tenant said there is a mold problem in the unit. The Tenants continued to say given their situation now, they feel they are unable to move and would like to continue the tenancy. The Tenants asked the Landlord to rescind the Mutual Agreement to End Tenancy dated November 9, 2018 and to continue the tenancy.

The Landlord said the rental unit is in very poor condition and he wants to make extensive repairs to the unit including removing the drywall and repairing all water leaks. The Landlord said they agreed to move out on June 30, 2019 and the Tenants have not moved out. The Landlord said he does not want to continue the tenancy but he will agree to end the tenancy on August 15, 2019.

The male Tenant said he understands that they agreed to the Mutual Agreement to End Tenancy and he requested the tenancy to end August 30, 2019.

The Landlord said he will only agree to August 15, 2019.

### Analysis

Section 44(c) says a landlord and tenant may end a tenancy by mutual agreement that is done in writing. I find the Mutual Agreement to End Tenancy dated November 9, 2018 with an effective vacancy date of June 30, 2019 is valid.

Both the Landlord and the Tenants agree that the Mutual Agreement to End Tenancy completed and signed on November 9, 2018 is valid. Consequently, I award the Landlord an Order of Possession with an effective vacancy date of August 15, 2019 as requested by the Landlord.

I also find that as the Landlord was successful in this matter he is entitled to recover the filing fee of \$100.00 for this proceeding from the Tenants. I order the Landlord to retain \$100.00 from the Tenants' security deposit as full payment of the filing fee for this proceeding.

Conclusion

An Order of Possession effective August 15, 2019 has been issued to the Landlord. A copy of the Order must be served on the Tenants: the Order of Possession may be enforced in 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: July 15, 2019

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Residential Tenancy Branch