



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DOUBLE B RANCH LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPB, OPM, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for the filing fee.

The landlord testified that the notice of hearing and evidence package was served on the tenant on September 16, 2019 by registered mail. The landlord provided a tracking number and stated that he had tracked the package and found that the tenant had picked it up on September 17, 2019. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord was represented by their Power of Attorney, Agent and Legal Counsel who were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession and a monetary order to recover the filing fee?

### **Background and Evidence**

The original tenancy started 27 years ago. There is no written tenancy agreement. The tenant MB sub let the rental unit to the current tenant JG in November 2018 with an understanding that this arrangement would end in April 2019. This arrangement was by oral agreement. JG paid his rent to MB. When MB returned in April 2019, JG refused to vacate. MB entered into a mutual end to tenancy agreement with the landlord, effective June 30, 2019 and vacated the rental unit on that day. JG continued to reside in the rental unit.

These parties attended a hearing on July 25, 2019. The tenant JG had applied to dispute a notice to end tenancy. A copy of the decision dated July 25, 2019 was filed into evidence. Based on the decision, the landlord made this application for an order of possession effective immediately.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant JG continues to reside in the rental unit after the original tenant has vacated. Based on the decision dated July 25, 2019, I find that the arbitrator determined that the landlord would have been entitled to an order of possession had he applied for one.

In the decision, the arbitrator states as follows;

*The landlord would have been entitled to an Order of Possession under section 52(2) (c.1) had the landlord made an application for dispute resolution. However the landlord has not filed such an Application for Dispute Resolution.*

*In summary I determined that I do not have the legal authority to grant an Order of Possession. The landlord has a right to file an Application for Dispute Resolution in accordance with the Residential Tenancy Act seeking such an order.*

The landlord stated that upon receiving this decision dated July 25, 2019, he made this application on July 30, 2019.

A copy of the mutual end to tenancy between the landlord and the original tenant MB, was filed into evidence. *Residential Tenancy Policy Guideline #19* states that if the landlord ends the tenancy with the original tenant, the tenancy ends for the subtenant as well.

Section 55 of the *Residential Tenancy Act* addresses an order of possession for the landlord. Section 55(2) states that:

(2)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:

(c.1)the tenancy agreement is a sublease agreement;

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

In this case I find that that JG was a sub tenant in a sublease agreement and that the original tenant ended the tenancy and moved out.

Based on the above, I find that the landlord is entitled to an order of possession effective immediately. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Since the landlord has proven his case, I grant him the recovery of the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$100.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession **effective two days after service** on the tenant and a monetary order for **\$100.00**.

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: October 03, 2019

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Residential Tenancy Branch