



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT, OPT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession of the rental unit pursuant to section 54; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord confirmed that he received the tenants' documentation for this hearing. The landlord did not submit any documentation for this hearing. Both parties were represented by family members. The tenant was represented by his sister and the landlord was represented by their son.

### Issue(s) to be Decided

Is the tenant entitled to an order of possession?

Is the tenant entitled to the recovery of the filing fee for this application from the landlord?

### Background and Evidence

SC gave the following testimony. SC testified that the landlords ended the tenancy with her brother in late May without warning or notice. SC testified that when her brother went on vacation for a week, he returned back to the unit to find that the locks had been changed and that his items were taken out of the unit. SC testified that her brother has been homeless since and wants to take back possession of the unit.

AB gave the following testimony. AB testified that the tenant was served a 4 Month Notice to End Tenancy in December 2018. AB testified that the landlord gave the tenant an extension of time to move out but failed to pay his rent on time and in full. AB testified that after the renovations were completed he moved into the unit and has resided there since. AB testified that he continues to live in the unit and will do so to assist his aging parents.

### Analysis

The tenant has not resided in the unit for over three months. The tenant requests an order of possession. The tenant did not provide sufficient documentation to show that the tenancy ended as they alleged or that the landlord was in breach of the Act, regulation or tenancy agreement. In addition, the landlord has a family member currently residing in the rental unit. Since there is a third party, that is not a named party to this application, I am unable to issue an order of possession to the tenant to remove them from the unit. I dismiss the tenants' application for an order of possession of the rental unit without leave to reapply.

The tenant is not entitled the recovery of the filing fee.

### Conclusion

The tenants' application is dismissed in its entirety without leave to reapply.

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 04, 2019