



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPT, FFT

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 54; and
2. An Order to recover the filing fee for this application - Section 72.

### Issue(s) to be Decided

Is the Tenant entitled to an order of possession?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The Tenant states that on March 24, 2020 and under a written tenancy agreement it paid the Landlord a security deposit of \$1,300.00 and was given the keys to the unit for an April 1, 2020 move-in date. The Tenant states that rent of \$2,600.00 is payable on the first day of each month. The Tenant states that it moved into the unit on April 1, 2020. The Tenant states that on April 27, 2020 the Tenant returned home from work to find that the Landlord was at the unit, had removed the Tenant’s belongings to the yard and had changed the locks to the unit. The Tenant states that the Landlord told the Tenant that they no longer wanted the tenancy. The Tenant states that the police were called and that on the advice from the police the Tenant called a locksmith and had the locks changed. The Tenant states that it is still residing in the unit.

The Landlord agrees that it collected the security deposit of \$1,300.00 but states that it was received by the Landlord on April 16, 2020 for a start date of May 1, 2020. The Landlord states that on April 23, 2020 they met with the Tenant and that on that date the Tenant paid the full rent for May 2020. The Landlord states that the Tenant was never given any keys to the unit. The Landlord does not dispute that the Tenant is in the unit and that the Tenant has changed the locks to the unit. The Landlord also states that no rent was paid for May 2020 and that on May 10, 2020 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent. The Tenant states that no such notice was given to the Tenant.

### Analysis

Section 54(1) of the Act provides that a tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the rental unit by making an application for dispute resolution. Section 62(4)(a) of the Act provides that all or part of an application for dispute resolution may be dismissed if there are no reasonable grounds for the application or part. Given the undisputed evidence of the payment of the security deposit I find that the Parties entered into a tenancy agreement. While there may be dispute about when the tenancy was to start or whether rent was paid, and I note the Landlord's inconsistent evidence in relation to the payment of rent for May 2020, given the undisputed evidence that the Tenant had possession of the unit at the time of the application and the undisputed evidence of both Parties that the Tenant continues to have possession of the unit, I find that there is an ongoing tenancy. Further as the Tenant has possession of the unit, I find that there are no grounds for an order of possession. For these reasons I dismiss the Tenant's claims for an order of possession and recovery of the filing fee.

### Conclusion

The Tenant's application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 01, 2020

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Residential Tenancy Branch