



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, OPM, OPB, MNRL-S, MNDL-S, MNDCL-S, FFL

### Introduction

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

- an order of possession for unpaid rent, for a mutual agreement to end tenancy, and for breach of an agreement, pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord, the landlord's agent, and the two individual tenants, tenant PJ ("tenant") and "tenant TJW," attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that her agent had permission to speak on her behalf. The tenant confirmed that he had permission to represent tenant TJW at this hearing. This hearing lasted approximately 36 minutes.

The hearing began at 11:00 a.m. with the landlord, the landlord's agent and tenant TJW present. The tenant called in late at 11:18 a.m. The hearing ended at 11:36 a.m.

An unidentified party called in repeatedly during the hearing but refused to identify themselves, despite numerous requests and warnings, so I disconnected that party from the hearing.

Rule 7.6 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* states the following:

*7.6 Identification of people present at a dispute resolution hearing*

*Each participant must identify all people who are present with them at the start and anyone who joins them at any time during a hearing.*

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were duly served with the landlord's application.

Pursuant to section 64(3)(c) of the *Act*, I amend the landlord's application to correct the landlord's first name. The landlord consented to this amendment during the hearing.

At the outset of the hearing, both parties confirmed that the tenant and tenant TJW vacated the rental unit. The tenant stated that he and tenant TJW vacated on March 31, 2020. The landlord claimed that she thought someone else was still living in the rental unit. The landlord's agent said that the landlord was not sure because she is not living in the country at this time. The tenant stated that no one else was living in the rental unit after he and tenant TJW vacated.

During the hearing, both parties agreed to the landlord being issued an order of possession effective at 1:00 p.m. on June 25, 2020, against the tenants.

I notified the landlord that both of her 10 Day Notices to End Tenancy for Unpaid Rent or Utilities, dated April 2, 2020 and April 10, 2020 ("two 10 Day Notices"), were cancelled and of no force or effect. She confirmed her understanding of same.

I informed the landlord that her application to recover the \$100.00 filing fee was dismissed without leave to reapply, as I was not required to make a decision after a full hearing on the merits, and both parties settled the order of possession issue.

I notified the landlord that her monetary claims were dismissed with leave to reapply. The landlord applied on May 30, 2020, and this hearing occurred on June 25, 2020. I notified the landlord that she obtained a priority hearing date because of the urgent nature of her application, since monetary applications are not priority issues and are scheduled for later hearing dates. I notified her that she could not bypass the hearing wait times by applying for an order of possession, particularly when she already knew the tenants had moved out, in order to obtain a quicker hearing date for a non-priority monetary issue.

Both parties were cautioned to obtain assistance with translation of the English language at any future RTB hearings. Both parties had difficulty speaking and understanding English during this hearing, which is why it took 36 minutes to conduct the hearing.

### Conclusion

I grant an Order of Possession to the landlord effective at 1:00 p.m. on June 25, 2020. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord's two 10 Day Notices, dated April 2, 2020 and April 10, 2020, are cancelled and of no force or effect.

The landlord's application for an order of possession for unpaid rent, for a mutual agreement to end tenancy, and for breach of an agreement, and to recover the \$100.00 application filing fee, is dismissed without leave to reapply.

The landlord's application for a monetary order for unpaid rent, for damage to the rental unit and for compensation for damage or loss under the *Act, Regulation* or tenancy agreement, is dismissed with 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: June 25, 2020

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Residential Tenancy Branch