



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPM

### Introduction

This hearing dealt with the landlord's application for an Order of Possession based on a mutual agreement to end tenancy. The landlord appeared at the hearing; however, there was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of the proceeding package upon the tenant. The landlord testified that the proceeding package was sent to the tenant via registered mail on June 26, 2020, to the rental unit address, and successfully delivered by Canada Post. The landlord provided a copy of the registered mail receipt, including tracking number, as proof of service. I have recorded the tracking number on the cover page of this decision. The landlord confirmed that at the time of mailing the tenant was still residing in the rental unit.

During the hearing, the landlord withdrew his request for recovery of the filing fee and I amended the application accordingly.

### Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on a mutual agreement to end tenancy?

### Background and Evidence

The parties entered into a one year fixed term tenancy that commenced on April 21, 2019 and expired on April 21, 2020. Upon expiration of the fixed term, the tenancy continued on a month to month basis. The tenant is required to pay rent of \$2250.00 on the first day of every month. The tenant paid a security deposit of \$1125.00 and a pet

damage deposit of \$1125.00; however, the landlord testified that he has refunded the pet damage deposit to the tenant already.

The landlord testified that on June 8, 2020 the parties executed a *Mutual Agreement to a End Tenancy* ("Mutual Agreement"). The parties mutually agreed to end the tenancy effective at 12:00 p.m. on August 8, 2020. The landlord provided a copy of the signed Mutual Agreement for my review.

The landlord explained that he and his wife are moving into the rental unit after the tenancy ends and they filed this Application for Dispute Resolution as a precautionary measure to ensure they regain possession of the rental unit.

### Analysis

Section 55 of the Act provides for the circumstances where a party is entitled to an Order of Possession. Below, I have reproduced the relevant portions of section 55:

- (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:
  - (d) the landlord and tenant have agreed in writing that the tenancy is ended.
- (3) The director may grant an order of possession before or after the date when a tenant is required to vacate a rental unit, and the order takes effect on the date specified in the order.

Based on the unopposed submissions of the landlord and the Mutual Agreement before me, which was signed by both parties, I am satisfied the parties agreed in writing that the tenancy ends on August 8, 2020 and the landlord is entitled to an Order of Possession under section 55(2)(d) of the Act.

Pursuant to section 55(3) of the Act, I grant the landlord an order of Possession on this date, to be effective at 12:00 p.m. on August 8, 2020 in keeping with the parties' written agreement.

### Conclusion

The landlord is provided an Order of Possession effective at 12:00 p.m. on August 8, 2020 to serve and enforce upon the tenant.

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 17, 2020

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Residential Tenancy Branch