



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Brown Bros. Agencies Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPM MNR FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "*Act*"). The participatory hearing was held, via teleconference, on August 31, 2020.

The Landlord (4 agents) attended the hearing. However, the Tenants did not attend. One of the Landlord's agents testified that he personally served the Tenants each with a copy of the Notice of Hearing and evidence on July 29, 2020. One of the other agents at the hearing testified that he witnessed the service of this package. I find the Tenants were sufficiently served with this package on July 29, 2020, the same day it was hand delivered to them.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Landlord applied for multiple remedies under the *Act*, some of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues the Landlord applied for, I have determined that the most pressing and related issue in the application deals with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss, with leave to reapply, the Landlord's application for monetary compensation, which appears to include unpaid rent. The issuance of the order of possession based off the mutual agreement to end tenancy is not sufficiently related to the payment or non-payment of rent, including what this amount has accrued to.

The Landlord is granted leave to reapply for monetary compensation for any damage or loss (either for unpaid rent or for damage to the rental unit) that has resulted from the tenancy.

#### Issues to be Decided

- Is the Landlord entitled to an order of possession based on a mutual agreement to end tenancy?

#### Background and Evidence

As per the tenancy agreement provided into evidence, the Landlord holds a security deposit in the amount of \$407.50.

The Landlord provided a copy of a mutual agreement to end tenancy (the "agreement"), dated January 8, 2020. The agreement specifies that the Tenant agreed to vacate the rental unit by 1:00 pm on February 28, 2020. Both the Landlord and the Tenant signed this written agreement.

The Landlord stated that the Tenant did not move out as agreed and he now wants an order of possession. The Landlord stated that they tried to apply for this order of possession sooner, but were not allowed because of the COVID-19 restrictions.

#### Analysis

Section 44 of the Act allows for a tenancy to end by mutual agreement of the parties to the tenancy as long as the agreement is in writing.

Based on the undisputed testimony and documentary evidence, and on a balance of probabilities, I find there is sufficient evidence to demonstrate that the parties entered into a mutual agreement to end the tenancy, effective February 28, 2020. I accept the

Landlord's undisputed submissions that the Tenant continues to occupy the rental unit, as of the date of this hearing.

I find the Landlord is entitled to an order of possession based on the mutual agreement to end tenancy. This order of possession will be effective two (2) days after it is served on the Tenants.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was successful in this hearing, I order the Tenants to repay the \$100. I authorize the Landlord to retain \$100.00 from the Tenant's security deposit, which leaves a security deposit balance of \$307.50, which must be dealt with in accordance with the *Act*.

### Conclusion

The landlord is granted an order of possession effective **two days after service** on the tenants. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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: August 31, 2020

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Residential Tenancy Branch