



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      **ET FFL**

### Introduction

The hearing was convened as a result of the Landlord's application under the *Residential Tenancy Act* (the "Act") for:

- an early termination of the tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application pursuant to section 72.

The Tenant did not attend this hearing scheduled for 11:00 am. I left the teleconference hearing connection open for the entire hearing, which ended at 12:08 pm, in order to enable the Tenant to call into this teleconference hearing. Two of the Landlord's agents ("WM" and "TM") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. Two witnesses ("GC" and "MM") for the Landlord attended the hearing when required to provide affirmed testimony. I also confirmed from the teleconference system that WM, TM, GC, MM and I were the only ones who had called into this teleconference.

TM testified that the Notice of Dispute Resolution Hearing and Landlord's evidence ("NDRP Package") was served by posting on the Tenant's door on November 26, 2021. GC also testified the NDRP Package was served on the Tenant's door. I find that the Tenant was served with the NDRP Package in accordance with sections 88 and 89 of the Act. Pursuant to section 90 of the Act, I find the Tenant was deemed to have been served with the NDRP Package on November 29, 2021.

### Preliminary Matter – Dismissal of Landlord's Application

The Landlord made an earlier application for dispute resolution (the “Previous Application”) to seek an Order of Possession based on a One Month Notice to End Tenancy. The street address of the rental unit provided by the Landlord in its application was misspelled. The arbitrator (“Previous Arbitrator”) who presided over the hearing of the Previous Application on November 15, 2021, relied on the street address provided by the Landlord in its application. As a result, the Previous Arbitrator granted an Order of Possession dated November 15, 2021 (“Previous Order”) requiring the Tenant to vacate the rental unit at the incorrectly spelled address of the rental unit.

When the Landlord relied on the Previous Order to seek a Writ of Possession, it was determined that the Previous Order was unenforceable due to the misspelled street address appearing in the Previous Order. The Landlord then filed an Application for Correction with the Residential Tenancy Branch (“RTB”) to seek a correction to the street address of the rental unit appearing on the Previous Order. During processing of the Application for Correction, there appears to have been a misunderstanding regarding the necessity for the Landlord to make a new application for dispute resolution in order to obtain a revised Order of Possession with the correct street address named on it. It was my position at the hearing of this application that I was not “seized” with the Previous Application and, therefore, I did not have the authority under the Act to make a correction to the rental address to an Order that had been granted by the Previous Arbitrator.

After the hearing for the Landlord’s this application, I made a request to determine the status of the Landlord’s Application for Correction. The Application for Correction was then forwarded to the Previous Arbitrator who has revised the Previous Order, as of November 16, 2021, so that it now corrects the spelling of the street address of the rental unit. The Landlord’s current application to seek an Order of Possession based on an early termination of the tenancy pursuant to section 56 of the Act is therefore moot. I have not set out the testimony or submissions of the Landlord’s agents and witnesses regarding the claim for an early termination as they are unnecessary now. Based on the above, I dismiss the Landlord’s current application without leave to reapply.

As this application was unnecessary, I have made a request to Information Services Unit of the RTB that the Landlord’s \$100.00 filing fee be refunded in due course. The Landlord should allow up to six weeks for this refund to be processed. If the Landlord has any questions or needs to follow-up on the processing of this refund, it may call the Contact Centre of the RTB.

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: January 5, 2022

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Residential Tenancy Branch