



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPM, FFL

### Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on July 11, 2022. The Landlords applied for the following relief, pursuant to the Residential Tenancy Act (the Act):

- an order of possession based on a mutual agreement to end the tenancy; and
- an order granting recovery of the filing fee.

The Landlords attended the hearing on their own behalf. SL attended the hearing on her own behalf and advised she was attending to support the Landlords' position. The Landlords and SL provided a solemn affirmation at the beginning of the hearing. KM did not attend the hearing.

BD testified that the Notice of Dispute Resolution Proceeding package was served on SL in person on July 22, 2022. During the hearing, KM acknowledged receipt of these documents. BD also testified that the Notice of Dispute Resolution Proceeding package was served on KM by leaving a copy at the door of the rental unit on July 22, 2022. A video showing the documents being served and an email to KM were submitted in support of service. In addition, the KM submitted a copy of a witness statement dated August 12, 2022, confirming service of documents on the Landlords, which would not have been necessary unless aware of the proceeding. Considering the above, I find that the above documents were sufficiently served on the Tenants for the purposes of the Act, pursuant to section 71 of the Act.

Although KM submitted documents to the Residential Tenancy Branch Dispute Management System, KM did not attend the hearing and the evidence was not referred to during the hearing.

Those in attendance were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

1. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to an order granting recovery of the filing fee?

### Background and Evidence

A copy of the signed tenancy agreement was submitted into evidence. It indicates the tenancy began on May 1, 2022. Rent of \$2,000.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$1,000.00 and a pet damage deposit of \$600.00, which the Landlords hold.

The Landlords request an order of possession based on a Mutual Agreement to End Tenancy dated July 4, 2022 (the Agreement). The Agreement is signed by BD and SL, and purports to end the tenancy on August 31, 2022, at 1:00 pm. A copy of the Agreement was submitted into evidence.

BD testified that KM was notified and was given the option of finding another roommate and entering into a new tenancy agreement. However, KM declined.

As noted above, SL attended the hearing to provide evidence in support of the Landlords' position. SL did not refer to the evidence submitted by KM.

### Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 44(1)(c) of the Act confirms that a tenancy may end if the landlord and tenant agree in writing to end the tenancy.

Policy Guideline #13 states:

A tenant can end a tenancy by giving the landlord a written notice. A tenancy may also end if the landlord and any tenant or co-tenant mutually agree in writing to end the tenancy. When a tenancy ends in these circumstances, the notice or agreement to end the tenancy applies to all co-tenants.

In this case, I find that SL agreed in writing to end the tenancy on August 31, 2022, at 1:00 pm. As per Policy Guideline #13, doing so ended the tenancy for all co-tenants, including KM. Therefore, I find the Landlords have demonstrated an entitlement to an order of possession effective on August 31, 2022, at 1:00 pm.

As the Landlords have been successful, I find they are entitled to recover the \$100.00 filing fee paid to make the application. I order that this amount may be deducted from the security deposit held, reducing the amount of the security deposit held to \$900.00.

### Conclusion

The Landlords are granted an order of possession, which will be effective on August 31, 2022, at 1:00 pm. The order of possession must be served on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlords may deduct \$100.00 from the security deposit held in recovery of the filing fee paid to make the application. The balance of the deposits held must be dealt with in accordance with section 38 of the Act.

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 22, 2022

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Residential Tenancy Branch