



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding ECO VISION DEVELOPERS  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, FFL

### Introduction

The Landlord applied for dispute resolution (“Application”) and seeks an order of possession relating to a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) under section 55(2)(b) of the *Residential Tenancy Act* (the “Act”). They are also seeking to recover the cost of the filing fee for the Application under section 72 of the Act.

R.D. attended the hearing for the Landlord. G.S., the Landlord’s caretaker and R.C., a witness also attended for the Landlord. Tenant D.C. attended for the Tenants. The parties affirmed to tell the truth during the hearing. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

### Preliminary issue: Vacancy of the Rental Unit

Service of the Landlord’s Notice of Dispute Resolution Package (the “Materials”) was discussed. During the discussion it became apparent that the Tenants had vacated the rental unit.

The Landlord was provided with the Materials on December 1, 2022. R.D. testified that the Materials were served on the Tenants on January 4, 2023 via registered mail.

When asked if they had received the Materials, D.C. testified that they vacated the rental unit on December 21, 2022 and had provided their forwarding address to the Landlord. As a result, the Materials were not delivered directly to them.

They stated they received a notification from Canada Post informing them they had mail to collect that had been returned from a previous address. They were able to pick up the Materials from Canada Post at the end of January 2023.

R.D. testified they found out the Tenants had vacated the rental unit on January 8, 2023. R.D. acknowledged an order of possession was no longer required as they now had possession of the rental unit.

Based on the testimony from both parties I find that the Tenants vacated the rental unit voluntarily on December 21, 2022. The Application for an order of possession is therefore moot since the tenancy has ended and the Landlord has possession of the rental unit. The Landlord did not submit any other claims with their Application, other than for the filing fee.

Section 62(4)(b) of the Act states an application may be dismissed if the application or part of an application for dispute resolution does not disclose a dispute that may be determined under the Act. Since an order of possession is no longer required by the Landlord, I exercise my authority under section 62(4)(b) of the Act to dismiss the Landlord's Application.

The Application is dismissed without leave to reapply. The Application was filed prior to the Tenants leaving the rental unit. As a result, I grant the filing fee. I grant the Landlord a Monetary Order in satisfaction of this payment order. It is the Landlord's obligation to serve the Monetary Order on the Tenants. If the Tenants do not comply with the Monetary Order, it may be filed by the Landlord with the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord's Application is now moot and is dismissed without leave to re-apply.

The filing fee is granted.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: March 16, 2023