



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPB, FF, O

### Introduction

This matter dealt with an application by the Landlord for an Order of Possession, to recover the filing fee for this proceeding and for other consideration.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on February 5, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

### Background and Evidence

This tenancy started on July 1, 2012 as a 1 year fixed term tenancy with an expiry date of June 1, 2013. Rent is \$1,000.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant said he paid a security deposit of \$500.00 June 15, 2012 and a pet deposit of \$500.00 on June 16, 2012. The Landlord said the Tenant paid a security deposit of \$500.00 on June 15, 2012 and a pet deposit of \$100.00 after June 15, 2012.

The Landlord said that the Tenant and Landlord agreed to end the tenancy in a Mutual Agreement to End a Tenancy dated November 30, 2012. That agreement had an effective vacancy date of 6:00 p.m. February 1, 2013. The Landlord said the Tenant has not vacated the unit and he is requesting an Order of Possession for as soon as possible to end the tenancy. The Landlord provided a copy of the Mutual Agreement to End a Tenancy in his evidence package.

The Tenant said he signed the Mutual Agreement to End a Tenancy and he understood what he signed, but he felt pressured to sign the document and now he doesn't want to move. The Tenant said he has found alternative living accommodation and is prepared to move if the Landlord is successful with his application. The Tenant also said he is expecting to receive his security deposit of \$500.00 and his pet deposit of \$500.00 to be

returned at the end of the tenancy. The Landlord said the Tenant only paid a \$100.00 pet deposit. Neither party had any evidence to confirm the amount of pet deposit paid.

The Landlord said the Tenant has unpaid rent for January, 2013 of \$400.00 and unpaid rent for February, 2013 of \$1,000.00, but he has not applied for this unpaid rent in this application as he wanted the Tenant to have funds in order to move. The Landlord also sought to recover the \$50.00 filing fee for this proceeding.

### Analysis

Section 55 (2) (d) of the Act says that a Landlord can receive an Order of Possession if the landlord and tenant have agreed in writing to end the tenancy and the Tenant is overholding in the rental unit.

The Landlord and the Tenant have agreed to end this tenancy as documented in the Mutual Agreement to End a Tenancy dated November 30, 2012, which is signed by both parties. That document indicates an effective vacancy date of February 1, 2013, which means the Tenant, is overholding in the rental unit. Consequently pursuant to section 55(2)(d) of the Act, I grant the Landlord an Order of Possession effective 2 days after service of the Order on the Tenant.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) and s. 72 of the Act to keep \$50.00 of the Tenant's security deposit to recover the filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia.

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: February 27, 2013

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Residential Tenancy Branch

